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ABSTRACT

This hearing considered reauthorization of the discretionary programs of the Education of the Handicapped Act which focus on technical assistance; personnel development; information dissemination; research; technology, educational media, and materials; and demonstration projects. Issues considered include ensuring that minority children with disabilities are fully and effectively served, programs for transition from secondary school to postsecondary education or employment and independent living, corporal punishment, assistive technology, ombudsman services, parent training centers, state-wide system change projects involving state education agencies and state vocational rehabilitation agencies, a computer-based information management system to coordinate national data about special education services, strengthening of the infrastructure of the discretionary programs, and coordinating legislative provisions of this bill with other programs. The document contains prepared statements, letters, and supplemental materials from government officials, university officials, representatives from professional and voluntary agencies, and concerned citizens. (JDD)

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HEARINGS ON THE REAUTHORIZATION OF THE EHA DISCRETIONARY PROGRAMS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON SELECT EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

HEARINGS HELD IN WASHINGTON, DC, FEBRUARY 20 AND 21, 1990

Serial No. 101–95

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CONTENTS

Page

Hearings held in Washington, DC:

February 20, 1990 ... 1

February 21, 1990 ... 173

Statement of:

Ballard, B. Joseph, Director, Office of Governmental Relations, the Council for Exceptional Children, Reston, VA; Norena Hale, President, the National Association of State Directors of Special Education, Inc., and Virginia Richardson, on behalf of Consortium for Citizens with Disabilities Task Force on Education ... 57

Davila, Robert R., Assistant Secretary for Special Education and Rehabilitative Services, U.S. Department of Education, accompanied by Judy Schrag, Director, Office of Special Education Programs, Office of Special Education and Rehabilitative Services, U.S. Department of Education ... 12

Dwyer, Kevin P., National Association of School Psychologists and Irwin A. Hyman, the National Association of School Psychologists and the American Psychological Association, accompanied by Steven Allison and Sharon Allison ... 237

Swanson, James M., Professor of Pediatrics, Psychiatry, and Social Sciences, University of California, and Mary Fowler Cox, Parent Support Groups, Attention Deficit Disorder Association of the USA and CH.A.D.D. ... 351

Valdivieso, Carol, Project Director, National Information Center for Children and Youth With Handicaps ... 174

Wolffe, Dr. Karen, Texas Transition Services Task Force; David Schwartzkopf, Assistant Commissioner, Division of Rehabilitation Services, Department of Jobs and Training; Dr. Frank Rusch, Director, Transition Institute, University of Illinois; and Robert Snowden, Field Coordinator, Project Workability ... 201

Yates, James R., Chairman, Department of Special Education, University of Texas, Austin, TX; Norma J. Ewing, Chairperson, Department of Special Education, Southern Illinois University, Carbondale, IL, and Georgia McMurray, New York, NY ... 124

Prepared statements, letters, supplemental materials, et cetera:

Allison, Sharon, prepared statement of ... 303

Allison, Steven, prepared statement of ... 315

American Association for Counseling and Development, prepared statement of ... 387

Anderson, Virginia, Chair, Legislative Services Committee, Learning Disabilities Association of America, prepared statement of ... 167

Ball, John E.D., President, National Captioning Institute, prepared statement of ... 160

Ballard, B. Joseph, Director, Office of Governmental Relations, the Council for Exceptional Children, Reston, VA, prepared statement of ... 60

Bragg, Dr. Willie A., Coordinator, Special Education, Virginia Union University, prepared statement of ... 161

Chandler, Barbara, Pediatric Program Manager, American Occupational Therapy Association, Inc., prepared statement of ... 382

Consortium for Citizens with Disabilities Task Force on Education, prepared statement of ... 99

Cox, Mary Fowler, Parent Support Groups, Attention Deficit Disorder Association of the USA and CH.A.D.D., prepared statement of ... 357

Davila, Robert R., Assistant Secretary for Special Education and Rehabilitative Services, U.S. Department of Education, prepared statement of ... 17

Page

Prepared statements, letters, supplemental materials, et cetera—Continued
- Dwyer, Kevin P., National Association of School Psychologists, prepared statement of 238
- Eisenberg, Nancy L., President, Attention Deficit Hyperactivity Disorder Association of Texas, prepared statement of 372
- Ewing, Norma J., Chairperson, Department of Special Education, Southern Illinois University, Carbondale, IL, prepared statement of 139
- Hale, Norena, President, the National Association of State Directors of Special Education, Inc., prepared statement of 76
- Hyman, Irwin A., the National Association of School Psychologists and the American Psychological Association, prepared statement of 262
- Koyanagi, Chris, Senior Director, National Mental Health Association, prepared statement of 170
- Martinez, Hon. Matthew G., a Representative in Congress from the State of California, prepared statement of 157
- McMurray, Georgia, New York, NY, prepared statement of 145
- National Association of School Psychologists, prepared statement of 390
- National Rehabilitation Counseling Association, prepared statement of 376
- Owens, Hon. Major R., a Representative in Congress from the State of New York, prepared statement of 4
- Parrino, Sandra Swift, Chairperson, National Council on the Handicapped, prepared statement of 163
- Rusch, Dr. Frank, Director, Transition Institute, University of Illinois, prepared statement of 215
- Schwartzkopf, David, Assistant Commissioner, Division of Rehabilitation Services, Department of Jobs and Training, prepared statement of 210
- Snowden, Robert, Field Coordinator, Project Workability, prepared statement of 230
- Swanson, James M., Professor of Pediatrics, Psychiatry, and Social Sciences, University of California, prepared statement of 357
- Valdivieso, Carol, Project Director, National Information Center for Children and Youth With Handicaps, prepared statement of 178
- Wolffe, Dr. Karen, Texas Transition Services Task Force, prepared statement of 204
- Yates, James R., Chairman, Department of Special Education, University of Texas, Austin, TX, prepared statement of 128

HEARING ON THE REAUTHORIZATION OF THE EHA DISCRETIONARY PROGRAMS

TUESDAY, FEBRUARY 20, 1990

House of Representatives,
Subcommittee on Select Education,
Committee on Education and Labor,
Washington, DC.

The subcommittee met, pursuant to call, at 10:05 a.m., in Room 2261, Rayburn House Office Building, Hon. Major R. Owens [Chairman] presiding.

Members present: Representatives Owens, Martinez, Payne, Bartlett, and Smith.

Staff present: Maria Cuprill, Wanser R. Green, Patricia Laird, Laurence Peters, Robert E. Tate, Sally Lovejoy, and Pat Morrissey.

Mr. Owens. The hearing of the Subcommittee on Select Education of the Education and Labor Committee will now commence.

The pace of change in today's world outdistances our capacity to adjust and accommodate to its demands. The unprecedented events in Eastern Europe are the most visible signs that we are entering new realms where the standard responses of the past are at best redundant, if not actually harmful. So it is with the world of people with disabilities.

We stand on the threshold of passing the Americans with Disabilities Act—a significant piece of civil rights legislation—before the end of this session of Congress. The ADA could not have been possible without an earlier groundbreaking legislation, the Education of the Handicapped Act, which guaranteed the right of all children with disabilities to an equal education.

Central to Public Law 94-142 are the discretionary programs which are the subject of today's hearing. The design of these programs provides the framework for research, technical assistance, information dissemination, personnel training, and model demonstration projects and activities.

It is our responsibility to move this legislation into the 21st century in order to ensure this Nation's commitment to equal education for every child and youth with disabilities in our public schools and other settings. This will not be possible unless we have sufficient funds.

The draft bill before you today does not have actual figures in it with respect to authorizations but we are discussing that among ourselves, and the discretionary programs under EHA we recognize have not kept pace with inflation since 1979. At a time when we are trying to pass civil rights legislation for people with disabilities, these programs remain grossly underfunded.

The President's budget proposal for special education programs requests an increase of only $13 per child. This represents a mere 4.7 percent increase over 1990. This is extremely disappointing for a President who wants to be known as the "education President" and supporter of ADA.

Instead of the funding approach which has been proposed—and I said we are discussing it among ourselves the authorization figures for this legislation, although we have not yet made it public—the minority has proposed an approach, and I would like to counterpropose and propose another approach—I have directed my staff to use a formula which is basically centered around the 1979 Consumer Price Index of inflation and the 1979 appropriation figures in order to bring these programs up to a level which reflects the purchasing power that we had in 1979. I am calling our approach and my formula our "emergency catch-up authorization."

It is close to scandalous—to leave the subject of authorizations and turn to another very important item in this reauthorization—it is close to scandalous that despite the fact that minority children make up a large portion of our public school population, we continue to ignore the need for minority participation in all areas of special education . We must address the shortages of minority professionals, teachers, and researchers.

To counter the inequitable distribution of funds and the lack of adequate representation, provisions have been made for recruitment, training, and retention of minorities in our institutes of higher education, including a 10 percent set-aside for minority teacher training at predominantly minority institutes of higher education.

I want to note that we are not interested in drawing lines in the sand or placing chips on our shoulders—nobody is accusing anybody of systematically denying participation or benefits to minority populations; however, there has been gross neglect. The facts show that there has been gross neglect. Whether the neglect is unintentional neglect, benign neglect, or hostile neglect, the same impact is received by those who are neglected, the same damage is done. And we pledge ourselves to work with the disability community and begin to correct this.

Special education services have generated an enormous amount of data since the original passage of Public Law 94-142 in 1975, and yet we have not created a way to manage and disseminate that data. In order to bring more coordination and rationality into what has been a fragmented and inefficient information collection and disseminate system, this proposed legislation requires the Department of Education to develop and implement a computer-based information management system.

Another area where this legislation responds to needed changes is in the support of successful transition of youth with disabilities from secondary school to postsecondary programs or employment and independent living.

To further this goal, we have included authorization for (1) demonstration models in the area of assistive technology and; (2) statewide system change projects involving the State education agency and the State vocational rehabilitation agency.

We cannot assure that these new system change projects will afford consistent quality and success in the delivery of transition services nationally unless we build on the knowledge base of our past five years' experience and incorporate those components that characterize successful transition programs.

Such components include: a multi-agency planning and coordinating unit at the State level; a team of school personnel, adult service providers, parents. and community representatives to collaborate in the development of transition services; integrated employment, a transition-related State policy that addresses local implementation; and an evaluation process that assesses the effectiveness of transition planning and implementation.

In America of 1990, I find it abhorrent and medieval that the educational system in some parts of this country utilizes corporal punishment of children. For many of our children with disabilities, the memory of physical punishment is still vivid. The visible scars may have healed, but the psychological scars remain.

In an effort to eliminate this form of discipline, I am proposing an amendment to EHA which would ban the use of corporal punishment. During these hearings, testimony will be presented by witnesses with firsthand experience and knowledge of this problem.

This subcommittee has responded to the need for change and reform by listening to a wide range of ideas and using an open process to draft bipartisan legislation. I look forward to productive and substantive hearings the next two days.

[The prepared statement of Hon. Major R. Owens follows:]

OPENING STATEMENT OF HON. MAJOR R. OWENS, CHAIRMAN
HOUSE SUBCOMMITTEE ON SELECT EDUCATION
HEARING ON THE REAUTHORIZATION OF THE EHA DISCRETIONARY PROGRAMS
FEBRUARY 20, 1990

THE PACE OF CHANGE IN TODAY'S WORLD OUTDISTANCES OUR CAPACITY TO ADJUST AND ACCOMMODATE TO ITS DEMANDS. THE UNPRECEDENTED EVENTS IN EASTERN EUROPE ARE THE MOST VISIBLE SIGNS THAT WE ARE ENTERING NEW REALMS WHERE THE STANDARD REPONSES OF THE PAST ARE AT BEST REDUNDANT IF NOT ACTUALLY HARMFUL. SO IT IS WITH THE WORLD OF PEOPLE WITH DISABILITIES. WE STAND ON THE THRESHOLD OF PASSING THE AMERICANS WITH DISABILITIES ACT--A SIGNIFICANT PIECE OF CIVIL RIGHTS LEGISLATION--BEFORE THE END OF THIS SESSION OF CONGRESS. THE ADA COULD NOT HAVE BEEN POSSIBLE WITHOUT AN EARLIER GROUND-BREAKING LEGISLATION, THE EDUCATION OF THE HANDICAPPED ACT, WHICH GUARANTEED THE RIGHT OF ALL CHILDREN WITH DISABILITIES TO AN EQUAL EDUCATION.

CENTRAL TO P.L. 94-142 ARE THE DISCRETIONARY PROGRAMS WHICH ARE THE SUBJECT OF TODAY'S HEARING. THE DESIGN OF THESE PROGRAMS PROVIDES THE FRAMEWORK FOR RESEARCH, TECHNICAL ASSISTANCE, INFORMATION DISSEMINATION, PERSONNEL TRAINING, AND MODEL DEMONSTRATION PROJECTS AND ACTIVITIES. IT IS OUR RESPONSIBILITY TO MOVE THIS LEGISLATION INTO THE TWENTY-FIRST CENTURY IN ORDER TO ENSURE THIS NATION'S COMMITMENT TO EQUAL EDUCATION FOR EVERY CHILD AND YOUTH WITH DISABILITIES IN OUR PUBLIC SCHOOLS AND OTHER SETTINGS. THIS WILL NOT BE POSSIBLE UNLESS WE HAVE SUFFICIENT FUNDS.

THE DISCRETIONARY PROGRAMS UNDER EHA HAVE NOT KEPT PACE WITH INFLATION SINCE 1979. AT A TIME WHEN WE ARE TRYING TO PASS CIVIL RIGHTS LEGISLATION FOR PEOPLE WITH DISABILITIES, THESE PROGRAMS REMAIN GROSSLY UNDERFUNDED. THE PRESIDENT'S BUDGET PROPOSAL FOR SPECIAL EDUCATION PROGRAMS REQUESTS AN INCREASE OF ONLY $13 PER CHILD. THIS REPRESENTS A MERE 4.7% INCREASE OVER 1990. THIS IS EXTREMELY DISAPPOINTING FOR A PRESIDENT WHO WANTS TO BE KNOWN AS THE "EDUCATION PRESIDENT" AND SUPPORTER OF ADA. INSTEAD OF THE FUNDING APPROACH PROPOSED BY THE MINORITY, I HAVE DIRECTED BY STAFF TO USE A FORMULA BASED ON THE 1979 CONSUMER PRICE INDEX OF INFLATION AND THE 1979 APPROPRIATION FIGURES IN ORDER TO BRING THESE PROGRAMS UP TO LEVEL THAT REFLECTS THE PURCHASING POWER WE HAD IN 1979. I AM CALLING THIS OUR "EMERGENCY CATCH UP AUTHORIZATION."

IT IS CLOSE TO SCANDALOUS THAT DESPITE THE FACT THAT MINORITY CHILDREN MAKE UP A LARGE PORTION OF OUR PUBLIC SCHOOL POPULATION, WE CONTINUE TO IGNORE THE NEED FOR MINORITY PARTICIPATION IN ALL AREAS OF SPECIAL EDUCATION. WE MUST ADDRESS THE SHORTAGES OF MINORITY PROFESSIONALS, TEACHERS, AND RESEARCHERS. TO COUNTER THE INEQUITABLE DISTRIBUTION OF FUNDS AND LACK OF ADEQUATE REPRESENTATION, PROVISIONS HAVE BEEN MADE FOR RECRUITMENT, TRAINING, AND RETENTION OF MINORITIES TO WORK IN EDUCATIONAL LEADERSHIP AND TEACHER PREPARATION IN OUR INSTITUTES OF HIGHER EDUCATION, INCLUDING A 10% SET-ASIDE FOR MINORITY TEACHER TRAINING AT PREDOMINANTLY MINORITY INSTITUTES OF HIGHER EDUCATION.

SPECIAL EDUCATION SERVICES HAVE GENERATED AN ENORMOUS AMOUNT OF DATA SINCE THE ORIGINAL PASSAGE OF P.L. 94-142 IN 1975, AND YET WE HAVE NOT CREATED A WAY TO MANAGE AND DISSEMINATE THAT DATA. IN ORDER TO BRING MORE COORDINATION AND RATIONALITY INTO WHAT HAS BEEN A FRAGMENTED AND INEFFICIENT INFORMATION COLLECTION AND DISSEMINATION SYSTEM, THIS PROPOSED LEGISLATION REQUIRES THE DEPARTMENT OF EDUCATION TO DEVELOP AND IMPLEMENT A COMPUTER-BASED INFORMATION MANAGEMENT SYSTEM.

ANOTHER AREA WHERE THIS LEGISLATION RESPONDS TO NEEDED CHANGES IS IN THE SUPPPORT OF SUCCESSFUL TRANSITION OF YOUTH WITH DISABILITIES FROM SECONDARY SCHOOL TO POST-SECONDARY PROGRAMS OR EMPLOYMENT AND INDEPENDENT LIVING. TO FURTHER THIS GOAL, WE HAVE INCLUDED AUTHORIZATION FOR (1) DEMONSTRATION MODELS IN THE AREA OF ASSISTIVE TECHNOLOGY AND (2) STATEWIDE SYSTEM CHANGE PROJECTS INVOLVING THE STATE EDUCATION AGENCY AND THE STATE VOCATIONAL REHABILITATION AGENCY. WE CANNOT ASSURE THAT THESE NEW SYSTEM CHANGE PROJECTS WILL AFFORD CONSISTENT QUALITY AND SUCCESS IN THE DELIVERY OF TRANSITION SERVICES NATIONALLY UNLESS WE BUILD ON THE KNOWLEDGE BASE OF OUR PAST FIVE YEARS' EXPERIENCE AND INCORPORATE THOSE COMPONENTS THAT CHARACTERIZE SUCCESSFUL TRANSITION PROGRAMS. SUCH COMPONENTS INCLUDE: A MULTI-AGENCY PLANNING AND COORDINATING UNIT AT THE STATE LEVEL; A TEAM OF SCHOOL PERSONNEL, ADULT SERVICE PROVIDERS, PARENTS, AND COMMUNITY REPRESENTATIVES TO COLLABORATE IN THE DEVELOPMENT OF TRANSITION SERVICES; INTEGRATED EMPLOYMENT;

A TRANSITION-RELATED STATE POLICY THAT ADDRESSES LOCAL IMPLEMENTATION; AND AN EVALUATION PROCESS THAT ASSESSES THE EFFECTIVENESS OF TRANSITION PLANNING AND IMPLEMENTATION.

IN AMERICA OF 1990, I FIND IT ABHORRENT AND MEDIEVAL THAT THE EDUCATIONAL SYSTEM IN SOME PARTS OF THIS COUNTRY UTILIZES CORPORAL PUNISHMENT OF CHILDREN. FOR MANY OF OUR CHILDREN WITH DISABILITIES, THE MEMORY OF PHYSICAL PUNISHMENT IS STILL VIVID. THE VISIBLE SCARS MAY HAVE HEALED, BUT THE PSYCHOLOGICAL SCARS REMAIN. IN AN EFFORT TO ELIMINATE THIS FORM OF DISCIPLINE, I AM PROPOSING AN AMENDMENT TO EHA WHICH WOULD BAN THE USE OF CORPORAL PUNISHMENT. DURING THESE HEARINGS, TESTIMONY WILL BE PRESENTED BY WITNESSES WITH FIRST-HAND EXPERIENCE AND KNOWLEDGE.

THIS SUBCOMMITTEE HAS RESPONDED TO THE NEED FOR CHANGE AND REFORM BY LISTENING TO A WIDE RANGE OF IDEAS AND USING AN OPEN PROCESS TO DRAFT BIPARTISAN LEGISLATION. I LOOK FORWARD TO A PRODUCTIVE AND SUBSTANTIVE TWO DAYS OF HEARINGS.

Mr. **Owens**. I yield to Mr. Bartlett for an opening statement.

Mr. **Bartlett**. Mr. Chairman, I first want to say how much I appreciate your efforts and the efforts of your staff in working in a bipartisan way to develop a reauthorization of the discretionary programs of the Education of the Handicapped Act.

I think we have made enormous progress towards a bipartisan and a very progressive agreement towards the reauthorization and the improvement of these discretionary programs. I would suggest that we still have a ways to go as you and I develop together a set of understanding of what these discretionary programs should look like and should do for the 1990s.

I have entered into these discussions and understanding with an open mind and I very much appreciate your hard work and your similar willingness to work towards an improvement of the Education of the Handicapped Act discretionary programs while at the same time retaining and insisting on retaining the strengths of the discretionary programs of the Education of the Handicapped Act.

In that sense, the next two days of hearings become quite important. We are about to embark on what I hope will be a five-year reauthorization of the discretionary programs under the Education of Handicapped Act. That reauthorization will likely begin with a substitute introduced—offered by you with my support. These programs of the Education of the Handicapped Act play a very key role in assuring the provision of a free appropriate public education to each child with a disability in this country.

As we work from the substitute that you and I will develop, I suggest that we work from that substitute and unveil that substitute to this subcommittee into the full committee, then at that point we will be seeking specific input and comments from interested parties as to how to further improve the substitute.

First, a word about the basic and the fundamental Public Law 94-142 itself, or the State Grant Program, that mandate that we place on public schools to provide a free appropriate public education to each child with a disability in this country.

I want to suggest that we have come a long way since the original passage of Public Law 94-142. In fact, the first set of graduates of Public Law 94-142 of 12 years of school are beginning to graduate and move into the world of work and postsecondary education In that sense, this country has largely put the dark ages of segregated education and education that was not appropriate or not useful behind us.

Having said that, I also want to remind this subcommittee and each one of us that we still in many ways have a long way to go. The fact is that in many ways in the basic State Grant Program or the Federal guarantee of a free appropriate public education, occasionally we still find exceptions to that mandate in ways in which some school districts have slipped back to the dark ages.

I was quite shocked, Mr. Chairman, earlier this year—shocked and, frankly, with some amount of disbelief to the point that I called back to the school district twice to determine the facts—to learn that a friend of mine, a young lady named Jennifer Topp, who is in her mid-teens in the ninth grade, that as a result of a request that was appealed to the State Education Agency in Texas, in the Rio Grande Valley, to obtain a free appropriate education for a life skills course just to obtain the right to enter a life skills course for check-writing, grocery shopping, and such as that.

As a result of that case, the State Education Agency and her parents learned for the first time that although she was in the ninth grade that she and her other special education students had never been allowed to participate in either pep rallies or to take or to sit for the class photo.

The bad news is that here we are in 1990 and a group of students in a relatively large school district in one State have never been permitted to sit with their class for a class photograph.

The good news is that once that was brought to the attention that that is illegal both to the school board and to the State, that was corrected, and I'm happy to report that Jennifer was permitted to sit with her class photograph. The good news is that she and other students can now participate in the class photograph.

The bad news is it was 1990 before she and her parents discovered that that was not the case.

So I suggest that I don't believe that there's any legislation that is needed, but I do suggest that we all remind ourselves that there is still a ways to go in the classroom with the basic Public Law 94-142 state grant program.

In the discretionary grant programs, which we will be reauthorizing, I want to mention three particular areas that represent the cornerstone of what I think will be the bipartisan proposal. I want to suggest that the bipartisan proposal is not limited to only these three areas, but these are three of the basics of it.

First, those proposals relating to transition; second, those that would strengthen the infrastructure of discretionary programs; and third, those that have focused on improving opportunities and services to minorities.

I am going to comment briefly on each one of these and then make some suggestions for the witnesses.

Before I do that, on the overall funding I do want to suggest that you and I, Mr. Chairman, have been exploring techniques that would improve the funding approach that would be granted to these discretionary programs, and I very much appreciate the approach that you have taken.

I think before all is said and done, we will be able to agree on a funding formula and authorization dollars. And if not, it's a simple matter of a majority vote by the Congress, and a majority will prevail.

I do want to comment on a couple of things about the funding.

First of all, as we increase funding, and I think we will, we need to be certain that we increase it in those areas that are the most productive for education and for handicapped children. Those from testimony previously given—tend to be in personnel training and in transition.

Second, I think this subcommittee always needs to be aware that authorization of funding is not the same as appropriations of funding. So if we increase authorization of funding to unrealistic levels, then our authorization levels would simply be disregarded by the appropriations committee. So I think we need to build our base and build our arguments so that our funding recommendations are respected and abided by the appropriations committee.

Third—and this is one that is hard to remember, but it's one that we absolutely have to remember—and that is every dollar that we successfully cause to be appropriated in the discretionary programs could be counted as a lost dollar to the State grants. And the State program, in fact, is where most of the Education of Handicapped money is spent—the State programs are those programs that are the most underfunded. We've seen statistics in years past that the Federal Government pays for no more than 94 percent of the total mandate that we mandate on school districts.

So I want us to always be certain that we are careful and make certain that we don't do anything in recommending a discretionary funding level that unduly takes dollars away from a State program. And I know, Mr. Chairman, that that is a sensitivity that you also have.

Now, on the three specific issues that I'd like to see the witnesses address today:

First, transition. Everyone in the field recognizes the need to improve the capacity of States to serve youths with disabilities between the ages of 14 and 21. A transition initiative that we're proposing—Chairman Owens' and my proposal—would establish a competitive State grant program to assist States to achieve that end. A stronger commitment to transition services is long overdue. It makes both economic and practical sense.

We made a start with some discretionary grants in the last reauthorization. This is the next logical step.

The proposal offers an opportunity for State education agencies and State vocational rehabilitation agencies to plan together to better serve our youth with disabilities. The program would encourage cooperation at all levels of the service delivery system, including the participation of the private industry councils and local employment offices. Entities like these could and should be more involved in providing direct transition services to targeted youth.

The problem is that young people go through school on one set of Federal programs for their education, and then they stop, and then another adult-serving agency has to start up. It is that start and stop that damages so many young people.

This transition initiative would provide an incentive for States to both evaluate and disseminate information about their own efforts to improve transition services. I anticipate that the new transition program will prepare students with disabilities to enter adulthood and lead successful, productive, and independent lives.

Second, as I indicated, our bipartisan proposal would strengthen the infrastructure of the discretionary grant program, and I think that is critical. This is accomplished through increased attention and emphasis being given to planning and dissemination, and also through a commitment in the Part E Research Amendments to redirect research funds to those activities which directly improve teaching in the classroom.

Although the long-term benefits of such provisions may be difficult to assess, the effects will clearly be very positive. By clarifying the responsibilities of clearinghouses by mandating that each grantee make a commitment to dissemination and by funding evaluation and dissemination activities directly, the positive effects of discretionary grant funds will be felt more broadly than in the past.

The third cornerstone of the bipartisan approach addresses minority individuals. I am committed to identifying effective means of increasing the participation of minority individuals in discretionary programs.

The provisions drafted by Chairman Owens dealing with minorities provides us with a focus for discussion and a basis for continued dialogue. We do share the common intent that this reauthorization give emphasis and increase the participation of minorities in discretionary grant activities.

We have not yet reached a consensus on how to achieve that outcome, but I think we have made remarkable programs.

I am looking forward to your testimony today, Mr. Secretary. I urge the Assistant Secretary and also each one of you as witnesses when raising specific objections to the proposal to give us specific solutions or alternatives to that proposal and reasons that you would adopt those alternatives or if you believe that there is simply not a need to address that area to say so.

In area funding, I do regret we haven't yet offered benchmarks to which you could respond but both Chairman Owens and I would like your input on how to provide authorization funding for this legislation.

We have spent a long time—over a half a year—in developing this bipartisan proposal. These provisions would build on a strong foundation and add programmatic initiatives in the area of demonstrated need. Working with the witnesses here today and others, I'm confident that we can achieve consensus on the final product that will result in viable benefits for infants, toddlers, children, and youth with disabilities.

Mr. Chairman, I yield back the balance of my time.

Mr. **Owens**. Mr. Payne?

Mr. **Payne**. Thank you very much, Mr. Chairman.

I'd like to take this opportunity to thank today's witnesses for participating in a discussion which will be held soon on education of individuals with disabilities.

I'm looking forward to hearing the testimony of those who are directly involved in educating and providing services for persons with disabilities.

I know that over the past few years we have become more aware of the special needs for those who are challenged by a mental or physical disabilities. I hope that our heightened consciousness has and will continue to translate into real and practical benefits.

I believe that as members of this committee and representatives of disabled constituents we must accept the responsibility of improving the educational and related services to the many persons with disabilities.

We must also focus on ways to improve transition, integration, and access to postsecondary education. To do these things, we must address issues such as research, training, and information dissemination.

I might also add that I am pleased that we will be paying specific attention to the services available to and provided by minorities. Unfortunately, minorities have been an underserved and under-represented group for a variety of reasons. The recognition in this bill of minorities as an under-represented group is commendable.

I am confident that the persons we hear from today and tomorrow will be able to provide us with useful information which will assist us in this reauthorization process.

I was very pleased to hear my colleague, Mr. Bartlett, talk about his interest and support for the provision dealing with minorities and, hopefully, we will be able to have a strong legislative measure, not to be diluted and watered down as we see happen in the legislative process many times. We saw this happen with the Americans with Disabilities Act, that was introduced in the 100th Congress. That bill would have been a bill which I would have preferred to see passed. But in the 101st Congress it has been diluted and some ambiguous terminology has been put in. Yet, hopefully, we can pass it this year, although I would have preferred the other, because if it goes to the 102nd Congress, I don't know what we will have there to serve the disability of the disabled people. So I think that it's really important that we move ahead with the challenge before us.

I thank the chairman for calling this hearing. Thank you very much.

Mr. OWENS. Mr. Smith?

Mr. SMITH. Mr. Chairman, I have no opening comment. I think we can get on with the testimony and maybe we will learn something.

Mr. OWENS. Our first witness is the Assistant Secretary for Special Education and Rehabilitative Services, Robert R. Davila.

I am pleased to welcome you again, Mr. Secretary. Of course, you know that your full written statement will be entered into the record, and I urge you to proceed with any further remarks you may have.

STATEMENT OF ROBERT R. DAVILA, ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES, U.S. DEPARTMENT OF EDUCATION, ACCOMPANIED BY JUDY SCHRAG, DIRECTOR, OFFICE OF SPECIAL EDUCATION PROGRAMS, OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES, U.S. DEPARTMENT OF EDUCATION

Mr. DAVILA. Thank you, Mr. Chairman.

I am pleased to have with me this morning Dr. Judy Schrag who is Director of Special Education Programs, Department of Education.

Mr. Chairman and members of the committee:

Thank you for the opportunity to testify on the proposed substitute version of H.R. 1013, the Education of the Handicapped Amendments of 1990.

The main focus of the bill is the reauthorization of section 618 and Parts C through G of the Education of the Handicapped Act. I strongly support the reauthorization of the programs covered by the bill. These programs, which would otherwise expire on September 30, 1990, support a variety of important research, demonstration, and training activities that help to strengthen services under the State grant programs for children with disabilities.

I am particularly pleased that these programs are extended through fiscal year 1994, as previously proposed by the administration. This will allow adequate time to assess the impact of statutory changes before the next reauthorization.

I support the goals, addressed throughout the bill, of ensuring that minority children with disabilities are fully and effectively serviced, and of revising the scope of activities under the discretionary programs to complement the relatively new State Grant Program for infants and toddlers with disabilities under Part H of the Act and the Technology Assistance Program authorized under Public Law 100-407. However, there are several areas where we believe improvements can be made to the bill.

Section 204(i) of the proposed bill would set aside one percent of the funds allocated under section 611 to assist States in providing services to children with disabilities for program information and evaluation purposes under section 618.

I would strongly oppose this set-aside requirement because it would decrease the funds available to the States, would increase the amount available in 1991 for section 618 more than fourfold, and would force the Department to continue to fund activities under section 618 at an ever-increasing level, whether or not programmatic needs warrant the expenditure.

We recommend that this provision be eliminated altogether and that authorization levels for section 618 be established.

I am very pleased to see the emphasis in this House bill on improving the ability of States to more effectively coordinate and implement transitional services. However, I recommend that awards based on joint applications from vocational rehabilitation and education agencies focus on developing, improving, and coordinating State and local efforts for providing services. The priority on direct services would draw resources away from important capacity-building activities that are the foundation for improved services.

Also, with regard to the addition of transition services to the definition of "special education," it should be made clear that those services are not available to students who are not otherwise receiving a free appropriate public education.

This administration is firmly and unequivocally committed to equal opportunity for all, in all aspects of life and certainly in all aspects of education and service to the disabled. The national commitment to such help is made without regard to race or any other irrelevant factor.

We am concerned that parts of this bill imply that certain schools, contractors, grantees, or professionals are, solely by reason of racial identification, the only ones suited to help the disabled of any race.

I note particularly three troublesome provisions: Section 610(g)(1)(D), "Goals for Minorities and Underserved Persons," will do nothing to advance equal opportunity; most of subsection (g)(2) of this new "goals" provision would provide "highest priority" for schools and firms only because of their racial identification; and the new section 641(a)(1)(G) focus on the development of assessment procedures based on race.

We support the goal of increasing opportunities for Historically Black Colleges and Universities and other minority institutions to participate in and benefit from Federal programs. However, I am opposed to giving such institutions a competitive preference in the awarding of grants and contracts in these special education programs.

The Department would be pleased to work with committee staff to incorporate into the bill language that assures appropriate consideration for the needs of minority persons.

I believe that the Department should focus its efforts on strengthening the capability of these institutions and promoting their development and self-sufficiency, rather than relying on special priorities and set-asides to ensure their full participation.

For this reason, the administration supports such initiatives as endowment challenge grants for HBCUs supported under the Higher Education Act, for which we requested an increase of 200 percent.

In addition, because of the importance of minority issues, I have asked the Office of Special Education Programs to identify steps that are currently being taken to support these goals. OSEP's current efforts include:

Funding a priority aimed at training teachers to serve minority children who are disabled;

Making a special effort to solicit grant applications from HBCUs and other institutions with high minority enrollments;

Providing increased technical assistance to parent projects to increase their responsiveness to issues relating to parents from minority populations.

Because much more needs to be done, I also asked OSEP to identify additional steps that can be taken under current authority to accomplish our goals in a much more effective manner. In response to its report I have directed OSEP to undertake the following additional efforts:

Ensure that there is an increased representation of minority reviewers on peer review panels, especially on those that support teacher training activities; and

Sponsor technical assistance and training programs on grant program and application procedures for personnel from HBCUs and other institutions with high minority enrollments.

Section 301 of the bill would delete the authority of the Secretary to focus activities of the Regional Resource Centers on national priorities. Under the current authority which would be repealed, the Regional Resource Centers provide assistance to States in areas relating to needs as identified in OSEP's monitoring findings. Deletion of this authority would severely restrict the ability of the Secretary to establish priorities and to link monitoring to the technical assistance required under section 617 of the Act.

Section 308 of the bill would add a new section 627 to the Act to authorize activities relating to children and youth with serious emotional disturbances.

I firmly believe that we must increase our efforts to address the needs of these children. However, a discrete program, such as called for by the bill, is unnecessary. Several other programs under the Act can, and already do, address this disability category.

In 1990 and 1991 we are providing more than $6 million to support personnel preparation projects and various research projects on identification and treatment of SED students, and the transition of special populations, including children with SED, into integrated postsecondary settings. I expect to focus increasing resources on this area beyond fiscal year 1991.

I want to commend the committee particularly for one clause in section 308, the requirement for a grant evaluation plan "which is outcome-oriented and which focuses on the benefits to individual children and youth."

One of the commitments made at the President's education summit with the Nation's governors which has the most far-reaching consequences is the determination to focus more on the results rather than solely on the processes in our education and training programs. This provision is precisely what was meant by that commitment.

While we do not believe section 308 is needed, we would applaud insertion of this language in every part of every statute that deals with the evaluation of programs.

The bill would amend the definition of children with disabilities to treat autism and traumatic brain injury as separate categories of disabilities. Autism is already included as a disability under the definition of "other health-impaired" children in the EHA regulations. We believe that traumatic brain injury is also a disability condition already covered by the EHA.

While we would not object to language clarifying that these two disabilities are included under the category of "other health-impaired," it must be emphasized that listing them as separate statutory categories will result in a 20 increase in the amount of data that must be collected and reported by State and local educational agencies under other provisions of the current Act and the bill.

If the purpose of including them as separate categories is to obtain better information about children with these disabilities, I believe that conducting studies on their incidence rates, level of services, and needs is a much less burdensome approach.

I believe that the Act's current definition of a "learning disability" covers all children with an attention deficit disorder who are, in fact, disabled. I am concerned that revising that definition to expressly include any child with such a disorder may result in the inclusion of some children who may have learning problems, but who do not have disabilities and who do not need special education within the meaning of the Act. Therefore, we do not support this change.

We oppose the new section 603 authorizing a noncompetitive sole source contract for recording for the blind. As the Secretary has said in many other forums, the best programs and services are provided when there is competition among providers. I am confident that Recording for the Blind, Inc. has the ability to compete on an equal footing for Federal funds. It would be very wrong to write this one entity into law for a noncompetitive grant.

The bill includes a number of management provisions that primarily relate to how OSERS carries out its responsibilities under the Act. I believe that these matters should be left to the Secretary's discretion and my professional judgment, particularly at a time when I am considering administrative methods to resolve the administrative issues addressed in this bill.

Specifically, we object to the proposed revision to section 610 of the Act regarding management and structure of peer review panels; the requirements under section 617 to conduct a feasibility study and implement an information system in OSERS; and the requirement under section 621 to establish a panel to develop guidelines for operating the Regional Resource Centers.

I do not support the inclusion of a specific provision in the EHA concerning corporal punishment. I do not support the use of corporal punishment as a method of disciplining children with disabilities. However, the EHA, section 504 of the Rehabilitation Act of 1973, and Title VI of the Civil Rights Act of 1964 already provide protections to children with disabilities against misuse of corporal punishment or its discriminatory application.

As a general matter, I believe that those areas that are not already covered by the EHA or other statutes should remain within the purview of the States.

I support proposed section 604 of the EHA (to be added by section 102 of the bill) which would abrogate the States' Eleventh Amendment immunity from suits by children with disabilities and their parents for monetary relief in Federal court under the Act.

The availability of monetary relief against States will enable Federal courts to fully meet the Act's directive to "grant such relief as . . . is appropriate" when children with disabilities prevail in disputes relating to their right to a free appropriate public education under Part B of the Act or early intervention services under Part H.

It will also provide an additional incentive for States to provide a free appropriate public education to those children with disabilities for whom it is directly responsible.

In conclusion, the substitute version of Education of the Handicapped Amendments Act of 1990 is a commendable first step in the reauthorization of programs that can improve services to millions of our Nation's infants, toddlers, children, and youth with disabilities.

I urge the committee to make the bill even stronger by adopting the improvements I have described, and I look forward to working with the Congress as it moves ahead with this important legislation.

I would be pleased to answer any questions you might have.

Thank you.

[The prepared statement of Robert R. Davila follows:]

STATEMENT OF
ROBERT R. DAVILA
ASSISTANT SECRETARY FOR SPECIAL EDUCATION
AND REHABILITATIVE SERVICES
U.S. DEPARTMENT OF EDUCATION
ON
H.R. 1013
REAUTHORIZATION OF THE EDUCATION OF THE
HANDICAPPED ACT DISCRETIONARY PROGRAMS
BEFORE THE
SUBCOMMITTEE ON SELECT EDUCATION
U.S. HOUSE OF REPRESENTATIVES
FEBRUARY 20, 1990

THANK YOU FOR THE OPPORTUNITY TO TESTIFY ON THE PROPOSED SUBSTITUTE VERSION OF H.R. 1013, THE "EDUCATION OF THE HANDICAPPED AMENDMENTS OF 1990." THE MAIN FOCUS OF THE BILL IS THE REAUTHORIZATION OF SECTION 618 AND PARTS C THROUGH G OF THE EDUCATION OF THE HANDICAPPED ACT. I STRONGLY SUPPORT REAUTHORIZATION OF THE PROGRAMS COVERED BY THE BILL. THESE PROGRAMS, WHICH WOULD OTHERWISE EXPIRE ON SEPTEMBER 30, 1990, SUPPORT A VARIETY OF IMPORTANT RESEARCH, DEMONSTRATION, AND TRAINING ACTIVITIES THAT HELP TO STRENGTHEN SERVICES UNDER THE STATE GRANT PROGRAMS FOR CHILDREN WITH DISABILITIES. I AM PARTICULARLY PLEASED THAT THESE PROGRAMS ARE EXTENDED THROUGH FISCAL YEAR 1994, AS PREVIOUSLY PROPOSED BY THE ADMINISTRATION. THIS WILL ALLOW ADEQUATE TIME TO ASSESS THE IMPACT OF STATUTORY CHANGES BEFORE THE NEXT REAUTHORIZATION.

I SUPPORT THE GOALS, ADDRESSED THROUGHOUT THE BILL, OF ENSURING THAT MINORITY CHILDREN WITH DISABILITIES ARE FULLY AND EFFECTIVELY SERVED, AND OF REVISING THE SCOPE OF ACTIVITIES UNDER THE DISCRETIONARY PROGRAMS TO COMPLEMENT THE RELATIVELY NEW STATE GRANT PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES UNDER PART H OF THE ACT AND THE TECHNOLOGY ASSISTANCE PROGRAM AUTHORIZED UNDER P.L. 100-407. HOWEVER, THERE ARE SEVERAL AREAS WHERE WE BELIEVE IMPROVEMENTS CAN BE MADE TO THE BILL.

SECTION 204(i) OF THE PROPOSED BILL WOULD SET ASIDE 1 PERCENT OF THE FUNDS ALLOCATED UNDER SECTION 611 TO ASSIST STATES IN PROVIDING SERVICES TO CHILDREN WITH DISABILITIES FOR PROGRAM INFORMATION AND EVALUATION PURPOSES UNDER SECTION 618. I STRONGLY OPPOSE THIS SET-ASIDE REQUIREMENT BECAUSE IT WOULD DECREASE THE FUNDS AVAILABLE TO THE STATES, WOULD INCREASE THE AMOUNT AVAILABLE IN 1991 FOR SECTION 618 MORE THAN FOURFOLD, AND WOULD FORCE THE DEPARTMENT TO CONTINUE TO FUND ACTIVITIES UNDER SECTION 618 AT AN EVER-INCREASING LEVEL, WHETHER OR NOT PROGRAMMATIC NEEDS WARRANT THE EXPENDITURE. I RECOMMEND THAT THIS PROVISION BE ELIMINATED ALTOGETHER AND THAT AUTHORIZATION LEVELS FOR SECTION 618 BE ESTABLISHED.

I AM VERY PLEASED TO SEE THE EMPHASIS IN THIS HOUSE BILL ON IMPROVING THE ABILITY OF STATES TO MORE EFFECTIVELY COORDINATE AND IMPLEMENT TRANSITIONAL SERVICES. HOWEVER, I RECOMMEND THAT AWARDS BASED ON JOINT APPLICATIONS FROM VOCATIONAL REHABILITATION AND EDUCATION AGENCIES FOCUS ON DEVELOPING, IMPROVING, AND COORDINATING STATE AND LOCAL EFFORTS FOR PROVIDING SERVICES. THE PRIORITY ON DIRECT SERVICES WOULD DRAW RESOURCES AWAY FROM IMPORTANT CAPACITY-BUILDING ACTIVITIES THAT ARE THE FOUNDATION FOR IMPROVED SERVICES.

ALSO, WITH REGARD TO THE ADDITION OF "TRANSITION SERVICES" TO THE DEFINITION OF "SPECIAL EDUCATION," IT SHOULD BE MADE CLEAR THAT

THOSE SERVICES ARE NOT AVAILABLE TO STUDENTS WHO ARE NOT OTHERWISE RECEIVING A FREE APPROPRIATE PUBLIC EDUCATION.

THIS ADMINISTRATION IS FIRMLY AND UNEQUIVOCALLY COMMITTED TO EQUAL OPPORTUNITY FOR ALL, IN ALL ASPECTS OF LIFE AND CERTAINLY IN ALL ASPECTS OF EDUCATION AND SERVICE TO THE DISABLED. THE NATIONAL COMMITMENT TO SUCH HELP IS MADE WITHOUT REGARD TO RACE OR ANY OTHER IRRELEVANT FACTOR. I AM CONCERNED THAT PARTS OF THIS BILL IMPLY THAT CERTAIN SCHOOLS, CONTRACTORS, GRANTEES, OR PROFESSIONALS ARE, SOLELY BY REASON OF RACIAL IDENTIFICATION, THE ONLY ONES SUITED TO HELP THE DISABLED OF ANY RACE.

I NOTE PARTICULARLY THREE TROUBLESOME PROVISIONS: SECTION 610(g)(1)(D), "GOALS FOR MINORITIES AND UNDERSERVED PERSONS," WILL DO NOTHING TO ADVANCE EQUAL OPPORTUNITY; MOST OF SUBSECTION (g)(2) OF THIS NEW "GOALS" PROVISION WOULD PROVIDE "HIGHEST PRIORITY" FOR SCHOOLS AND FIRMS ONLY BECAUSE OF THEIR RACIAL IDENTIFICATION; AND THE NEW SECTION 641(a)(1)(G) FOCUS ON THE DEVELOPMENT OF ASSESSMENT PROCEDURES BASED ON RACE.

I SUPPORT THE GOAL OF INCREASING OPPORTUNITIES FOR HBCUS AND OTHER MINORITY INSTITUTIONS TO PARTICIPATE IN AND BENEFIT FROM FEDERAL PROGRAMS. HOWEVER, I AM OPPOSED TO GIVING SUCH INSTITUTIONS A COMPETITIVE PREFERENCE IN THE AWARDING OF GRANTS AND CONTRACTS IN THESE SPECIAL EDUCATION PROGRAMS.

THE DEPARTMENT WOULD BE PLEASED TO WORK WITH COMMITTEE STAFF TO INCORPORATE INTO THE BILL LANGUAGE THAT ASSURES APPROPRIATE CONSIDERATION FOR THE NEEDS OF MINORITY PERSONS.

I BELIEVE THAT THE DEPARTMENT SHOULD FOCUS ITS EFFORTS ON STRENGTHENING THE CAPACITY OF THESE INSTITUTIONS AND PROMOTING THEIR DEVELOPMENT AND SELF-SUFFICIENCY, RATHER THAN RELYING ON SPECIAL PRIORITIES AND SET-ASIDES TO ENSURE THEIR FULL PARTICIPATION. FOR THIS REASON, THE ADMINISTRATION SUPPORTS SUCH INITIATIVES AS ENDOWMENT CHALLENGE GRANTS FOR HBCUS SUPPORTED UNDER THE HIGHER EDUCATION ACT, FOR WHICH WE REQUESTED AN INCREASE OF 200 PERCENT. IN ADDITION, BECAUSE OF THE IMPORTANCE OF MINORITY ISSUES, I HAVE ASKED THE OFFICE OF SPECIAL EDUCATION PROGRAMS (OSEP) TO IDENTIFY STEPS THAT ARE CURRENTLY BEING TAKEN TO SUPPORT THESE GOALS. OSEP'S CURRENT EFFORTS INCLUDE:

- FUNDING A PRIORITY AIMED AT TRAINING TEACHERS TO SERVE MINORITY CHILDREN WHO ARE DISABLED.
- MAKING A SPECIAL EFFORT TO SOLICIT GRANT APPLICATIONS FROM HBCUS AND OTHER INSTITUTIONS WITH HIGH MINORITY ENROLLMENTS.
- PROVIDING INCREASED TECHNICAL ASSISTANCE TO PARENT PROJECTS TO INCREASE THEIR RESPONSIVENESS TO ISSUES RELATING TO PARENTS FROM MINORITY POPULATIONS.

BECAUSE MUCH MORE NEEDS TO BE DONE, I ALSO ASKED OSEP TO IDENTIFY ADDITIONAL STEPS THAT CAN BE TAKEN UNDER CURRENT AUTHORITY TO ACCOMPLISH OUR GOALS IN A MUCH MORE EFFECTIVE MANNER. IN RESPONSE TO ITS REPORT I HAVE DIRECTED OSEP TO UNDERTAKE THE FOLLOWING ADDITIONAL EFFORTS:

- ENSURE THAT THERE IS AN INCREASED REPRESENTATION OF MINORITY REVIEWERS ON PEER REVIEW PANELS, ESPECIALLY ON THOSE THAT SUPPORT TEACHER TRAINING ACTIVITIES.
- SPONSOR TECHNICAL ASSISTANCE AND TRAINING PROGRAMS FOR PERSONNEL FROM HBCUS AND OTHER INSTITUTIONS WITH HIGH MINORITY ENROLLMENTS ON GRANT PROGRAM AND APPLICATION PROCEDURES.

SECTION 301 OF THE BILL WOULD DELETE THE AUTHORITY OF THE SECRETARY TO FOCUS ACTIVITIES OF THE REGIONAL RESOURCE CENTERS ON NATIONAL PRIORITIES. UNDER THE CURRENT AUTHORITY WHICH WOULD BE REPEALED, THE REGIONAL CENTERS PROVIDE ASSISTANCE TO STATES IN AREAS RELATING TO NEEDS AS IDENTIFIED IN OSEP'S MONITORING FINDINGS. DELETION OF THIS AUTHORITY WOULD SEVERELY RESTRICT THE ABILITY OF THE SECRETARY TO ESTABLISH PRIORITIES AND TO LINK MONITORING TO THE TECHNICAL ASSISTANCE REQUIRED UNDER SECTION 617 OF THE ACT.

SECTION 308 OF THE BILL WOULD ADD A NEW SECTION 627 TO THE ACT TO AUTHORIZE ACTIVITIES RELATING TO CHILDREN AND YOUTH WITH SERIOUS EMOTIONAL DISTURBANCES. I FIRMLY BELIEVE THAT WE MUST INCREASE OUR EFFORTS TO ADDRESS THE NEEDS OF THESE CHILDREN. HOWEVER, A DISCRETE PROGRAM, SUCH AS CALLED FOR BY THE BILL, IS UNNECESSARY. SEVERAL OTHER PROGRAMS UNDER THE ACT CAN, AND ALREADY DO, ADDRESS THIS DISABILITY CATEGORY. IN 1990 AND 1991 WE ARE PROVIDING MORE THAN $6 MILLION TO SUPPORT PERSONNEL PREPARATION PROJECTS AND VARIOUS RESEARCH PROJECTS ON IDENTIFICATION AND TREATMENT OF SED STUDENTS, AND THE TRANSITION OF SPECIAL POPULATIONS, INCLUDING CHILDREN WITH SED, INTO INTEGRATED POSTSECONDARY SETTINGS. I EXPECT TO FOCUS INCREASING RESOURCES ON THIS AREA BEYOND FISCAL YEAR 1991.

I WANT TO COMMEND THE COMMITTEE PARTICULARLY FOR ONE CLAUSE IN SECTION 308, THE REQUIREMENT FOR A GRANT EVALUATION PLAN "WHICH IS OUTCOME-ORIENTED AND WHICH FOCUSES ON THE BENEFITS TO INDIVIDUAL CHILDREN AND YOUTH." ONE OF THE COMMITMENTS MADE AT THE PRESIDENT'S EDUCATION SUMMIT WITH THE NATION'S GOVERNORS WHICH HAS THE MOST FAR-REACHING CONSEQUENCES IS THE DETERMINATION TO FOCUS MORE ON THE RESULTS RATHER THAN SOLELY ON THE PROCESSES IN OUR EDUCATION AND TRAINING PROGRAMS. THIS PROVISION IS PRECISELY WHAT WAS MEANT BY THAT COMMITMENT. WHILE WE DO NOT BELIEVE SECTION 308 IS NEEDED, WE WOULD APPLAUD INSERTION OF THIS LANGUAGE IN EVERY PART OF EVERY STATUTE THAT DEALS WITH THE EVALUATION OF PROGRAMS.

THE BILL WOULD AMEND THE DEFINITION OF CHILDREN WITH DISABILITIES TO TREAT AUTISM AND TRAUMATIC BRAIN INJURY AS SEPARATE CATEGORIES OF DISABILITIES. AUTISM IS ALREADY INCLUDED AS A DISABILITY UNDER THE DEFINITION OF "OTHER HEALTH IMPAIRED" CHILDREN IN THE EHA REGULATIONS (34 CFR 300.5(B)(7)). WE BELIEVE THAT TRAUMATIC BRAIN INJURY IS ALSO A DISABILITY CONDITION ALREADY COVERED BY THE EHA.

WHILE WE WOULD NOT OBJECT TO LANGUAGE CLARIFYING THAT THESE TWO DISABILITIES ARE INCLUDED UNDER THE CATEGORY OF "OTHER HEALTH IMPAIRED", IT MUST BE EMPHASIZED THAT LISTING THEM AS SEPARATE STATUTORY CATEGORIES WILL RESULT IN A 20% INCREASE IN THE AMOUNT OF DATA THAT MUST BE COLLECTED AND REPORTED BY STATE AND LOCAL EDUCATIONAL AGENCIES UNDER OTHER PROVISIONS OF THE CURRENT ACT AND THE BILL. IF THE PURPOSE OF INCLUDING THEM AS SEPARATE CATEGORIES IS TO OBTAIN BETTER INFORMATION ABOUT CHILDREN WITH THESE DISABILITIES, I BELIEVE THAT CONDUCTING STUDIES ON THEIR INCIDENCE RATES, LEVEL OF SERVICES, AND NEEDS IS A MUCH LESS BURDENSOME APPROACH.

I BELIEVE THAT THE ACT'S CURRENT DEFINITION OF A "LEARNING DISABILITY" COVERS ALL CHILDREN WITH AN ATTENTION DEFICIT DISORDER WHO ARE, IN FACT, DISABLED. I AM CONCERNED THAT REVISING THAT DEFINITION TO EXPRESSLY INCLUDE ANY CHILD WITH SUCH A DISORDER MAY RESULT IN THE INCLUSION OF SOME CHILDREN WHO MAY

HAVE LEARNING PROBLEMS, BUT WHO DO NOT HAVE DISABILITIES AND WHO DO NOT NEED "SPECIAL EDUCATION" WITHIN THE MEANING OF THE ACT. THEREFORE, I DO NOT SUPPORT THIS CHANGE.

I OPPOSE THE NEW SECTION 603 AUTHORIZING A NON-COMPETITIVE SOLE SOURCE CONTRACT FOR RECORDING FOR THE BLIND. AS THE SECRETARY HAS SAID IN MANY OTHER FORUMS, THE BEST PROGRAMS AND SERVICES ARE PROVIDED WHEN THERE IS COMPETITION AMONG PROVIDERS. I AM CONFIDENT THAT RECORDING FOR THE BLIND, INC., HAS THE ABILITY TO COMPETE ON AN EQUAL FOOTING FOR FEDERAL FUNDS. IT WOULD BE VERY WRONG TO WRITE THIS ONE ENTITY INTO LAW FOR A NON-COMPETITIVE GRANT.

THE BILL INCLUDES A NUMBER OF MANAGEMENT PROVISIONS THAT PRIMARILY RELATE TO HOW OSERS CARRIES OUT ITS RESPONSIBILITIES UNDER THE ACT. I BELIEVE THAT THESE MATTERS SHOULD BE LEFT TO THE SECRETARY'S DISCRETION AND MY PROFESSIONAL JUDGMENT, PARTICULARLY AT A TIME WHEN I AM CONSIDERING ADMINISTRATIVE METHODS TO RESOLVE THE ADMINISTRATIVE ISSUES ADDRESSED IN THIS BILL. SPECIFICALLY, WE OBJECT TO THE PROPOSED REVISION TO SECTION 610 OF THE ACT REGARDING MANAGEMENT AND STRUCTURE OF PEER REVIEW PANELS; THE REQUIREMENTS UNDER SECTION 617 TO CONDUCT A FEASIBILITY STUDY AND IMPLEMENT AN INFORMATION SYSTEM IN OSERS; AND THE REQUIREMENT UNDER SECTION 621 TO ESTABLISH A PANEL TO DEVELOP GUIDELINES FOR OPERATING THE REGIONAL RESOURCE CENTERS.

I DO NOT SUPPORT THE INCLUSION OF A SPECIFIC PROVISION IN THE EHA CONCERNING CORPORAL PUNISHMENT. I DO NOT SUPPORT THE USE OF CORPORAL PUNISHMENT AS A METHOD OF DISCIPLINING CHILDREN WITH DISABILITIES. HOWEVER THE EHA, SECTION 504 OF THE REHABILITATION ACT OF 1973, AND TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 ALREADY PROVIDE PROTECTIONS TO CHILDREN WITH DISABILITIES AGAINST MISUSE OF CORPORAL PUNISHMENT OR ITS DISCRIMINATORY APPLICATION. AS A GENERAL MATTER, I BELIEVE THAT THOSE AREAS THAT ARE NOT ALREADY COVERED BY THE EHA OR OTHER STATUTES SHOULD REMAIN WITHIN THE PURVIEW OF THE STATES.

I SUPPORT PROPOSED SECTION 604 OF THE EHA (TO BE ADDED BY SECTION 102 OF THE BILL) WHICH WOULD ABROGATE THE STATES' ELEVENTH AMENDMENT IMMUNITY FROM SUITS BY CHILDREN WITH DISABILITIES AND THEIR PARENTS FOR MONETARY RELIEF IN FEDERAL COURT UNDER THE ACT. THE AVAILABILITY OF MONETARY RELIEF AGAINST STATES WILL ENABLE FEDERAL COURTS TO FULLY MEET THE ACT'S DIRECTIVE TO "GRANT SUCH RELIEF AS . . . IS APPROPRIATE" WHEN CHILDREN WITH DISABILITIES PREVAIL IN DISPUTES RELATING TO THEIR RIGHT TO A FREE APPROPRIATE PUBLIC EDUCATION (FAPE) UNDER PART B OF THE ACT OR EARLY INTERVENTION SERVICES UNDER PART H. IT WILL ALSO PROVIDE AN ADDITIONAL INCENTIVE FOR STATES TO PROVIDE FAPE TO THOSE CHILDREN WITH DISABILITIES FOR WHOM IT IS DIRECTLY RESPONSIBLE.

IN CONCLUSION, THE SUBSTITUTE VERSION OF EDUCATION OF THE HANDICAPPED AMENDMENTS ACT OF 1990 IS A COMMENDABLE FIRST STEP IN

THE REAUTHORIZATION OF PROGRAMS THAT CAN IMPROVE SERVICES TO MILLIONS OF OUR NATION'S INFANTS, TODDLERS, CHILDREN, AND YOUTH WITH DISABILITIES. I URGE THE COMMITTEE TO MAKE THE BILL EVEN STRONGER BY ADOPTING THE IMPROVEMENTS I HAVE DESCRIBED, AND I LOOK FORWARD TO WORKING WITH THE CONGRESS AS IT MOVES AHEAD WITH THIS IMPORTANT LEGISLATION.

I WOULD BE PLEASED TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.

Mr. Owens. Thank you very much, Mr. Secretary.

We have noted on a previous occasion that your assumption of duties at OSERS has led to some important positive changes, which we certainly have welcomed. However, we are concerned about the behavior of the institution, the memory of the institution, the history of the institution, and we don't have any reason to believe that things are necessarily going to always continue in the same spirit that you've introduced them. We can't trust the presence of certain personalities to guarantee that we're going to have a smoother running agency which is concerned about making the kinds of improvements that need to be made.

We hope that you understand that as we move forward with our amendments. For example, you've used some very strong language in rejecting the amendments related to the need to deal with neglect of minorities. We didn't mean to imply that only waste should be used as a criteria for awarding contracts or doing anything else.

We are really following precedents that have already been set in other Federal legislation. Title III of the Reauthorization of the Higher Education Act and its special treatment of Historically Black Colleges and Universities set a precedent which we urge you to take a look at—and set-asides are used in a number of other places, a number of other departments, in a number of Federal laws. The Supreme Court recently, in throwing out set-asides at the local and State level, reaffirmed the right of the Federal Government to legislate in this area in order to make corrections and correct inequities that long existed.

So we hope to have a positive dialogue with an understanding that no one is accusing—as I said at the beginning—no one is accusing anybody of a systematic effort to shut out minorities.

I think that the scarcity of resources, the disabilities that communities have to work with, have a lot to do with the fact that there have been certain groups neglected—the whole process of discretionary grants guarantees that groups that are not aggressive, groups that don't have certain resources to apply for grants, don't have grantsmanship skills, they are going to be left out. Whatever the reason, as I said before, whether it's unintentional, benign, or hostile neglect, the impact is the same say—groups are neglected inordinately. Sometimes it is political and certainly OSERS has been guilty of doing things that we cannot understand in light of some of your testimony.

For example, under the previous administration and the previous Assistant Secretary , there was a decision made to eliminate the preference for minorities and personnel preparation. That was a regulation that was established by the Department, so they could eliminate it, it was not law, it was to them—and they eliminated. That very tiny, little step that had been taken was eliminated—preference to minorities and personnel preparation programs was removed.

There have also been few grants given to Historically Black Colleges and Universities or other minority entities over the last 10 years.

Are you familiar with the history of that little removal and is there a reason for that? Can anybody justify the fact that they removed that preference?

Mr. DAVILA. I'm not really familiar with all of the history, sir, but I have my responsibilities of trying to support programs for all persons, especially those who come from minority backgrounds—I don't have any problems. I have through my position also my own sense of dedication, my own sense of understanding of needs, my own sense of fairness. I am guided by this lifelong commitment.

Mr. OWENS. We applaud that commitment, we appreciate that commitment, but we hope you understand how we are not comfortable with a commitment based on personal presence of a certain personality in that important position. While you are there we will relax, but we're talking about institutions, we're talking about the behavior of an institution, and we need better guarantees, and I hope we can discuss this with you at greater length.

I also would like to note that you again are not happy with the fact that we are proposing certain administrative and management changes, and the old myth of micromanagement attempts by this committee has been resurrected. But our behavior is guided by the past behavior of this institution and the fact that the management did degenerate to some levels that were unusually low and inefficient for a Federal agency with the responsibilities and status and a place in the Federal Government.

You say that it's not necessary to have these items in there. I would like for you to take this opportunity to elaborate a little on that and bring us up to date on why we don't need to place in this legislation some requirements that certain management changes be made.

Mr. DAVILA. Thank you.

I go to my position here with good management experience. There are proposals here, for example, one related to that composition and peer review panels; we follow this now. For example, I personally want to review the composition of each review panel that evaluates the proposals. I think that review panels should be representative of all people with disabilities, and the advocates, parents, especially people with disabilities should be included on review panels. I came to my position with a commitment—we are observing that—the change is already in place and we will be monitoring that.

The second concern related to a feasibility study, an information system within OSERS, we don't need any feasibility study—what we need actually are the time and resources to develop it. We need personnel, we need computers and other hardware to support. So it is not a question of having to do a feasibility study to determine what we need; we already know that.

The third area related to the PRC's; they play a valuable role in assisting the States. So we need the flexibility to be able to determine the goals and priorities in the activities of the centers. What I have expressed here is my concern for the need to remain flexible.

Mr. OWENS. Mr. Secretary, do any of our recommendations for management improvements or items that we would like to see written into law handicap you in any way? Are they harmful to administrative process? Are they making it more difficult for you to do your job or future secretaries to do their job?

Mr. DAVILA. I have no question about principle guiding the proposals. I am in agreement that we do need an information system where we can retrieve valuable information—no question about that. We have already moved forward in that direction within OSEP to make our information more readily available and useful. I have already moved forward on this idea.

Mr. Owens. Finally, Mr. Secretary, I would like to submit some additional questions to you; among those questions will be some requests for evidence of some of the things you say are happening with respect to minority outreach.

You list several items here that you call current efforts. Current efforts include the following: funding a priority aimed at training teachers to serve minority children who are disabled; making a special effort to solicit grant applications from Historically Black Colleges and Universities and other institutions with high minority enrollment; providing increased technical assistance to parent projects to increase their responsiveness to issues related to parents from minority populations.

I questioned my staff and they have seen no evidence that these things are actually going forward. I would like to have from you and your staff more concrete evidence that they really are occurring.

You also state that you have directed additional steps to be taken and ensure that there is increased representation of minority reviews as you just explained, and technical assistance in training personnel from HBCUs. We'd like to see concretely how that's moving forward also.

We will be in touch with you with specific questions to get more information about these projected new initiatives.

I thank you very much and I yield to Mr. Bartlett.

Mr. Bartlett. Thank you, Mr. Chairman. I have a series of questions to clarify the Secretary's testimony.

First I want to commend Secretary Davila for the excellent job that you've done as Assistant Secretary. I think that you have really made some major improvements at OSERS. I am one that thinks that OSERS over the course of the 1980s has been a division that has made enormous progress; has brought many positive changes in the world of education of the handicapped. So I'm not one who is as critical of that department as Chairman Owens, but nevertheless, I do believe that you have built on that base and made additional positive changes—my congratulations.

I want to ask you several questions about the specifics of this legislation. First, like Chairman Owens, I would very much look forward to seeing your data and description of what the Department has done in funding a priority aimed at training teachers to serve minority children who are disabled as well as the special efforts that you've made to solicit grant applications to historically black colleges and other minority or largely minority college campuses.

I do think it's important to take note that the goal here is to serve children. And in particular if we believe, and there may be data that indicates this, that minority children are underserved, then the goal is to serve children and the goal of personnel preparation is to prepare special education teachers who are minorities in order to serve those minority and disabled children.

I think it's important as we go through the discussions on how to accomplish that, that they would begin with the basic fact that 36 percent of black students in this country at four-year colleges and universities were historically black colleges, so the other two-thirds were at non-minority colleges. And of those 36 percent, or approximately 235,000 students, one-half of one percent of those students were enrolled in special education at historically black colleges, or approximately 1200 students.

I want to focus on that number for a minute as we discuss various set-aside proposals, because I don't want words or headlines to get in the way of serving students. If indeed there are today 1200 students enrolled in special education at historically black colleges, then in fact we don't want to create some kind of a set-aside that takes money away from other colleges that would serve the other two-thirds of black students going to colleges and universities.

I have some data from Texas on Hispanic students at colleges that are 25 percent or more Hispanic, and the data tends to bear out some relationship, although perhaps not quite as much.

I also note that you must be doing something right. Of those students that are entering education courses for education preparation, 4.8 percent of all incoming college students enter education as a profession at the undergraduate level, but 11 percent of those enroll in special education. So we do have some increase in that.

Now my question is: In the area of minority grants, is the Department making a particular or a special effort to emphasize personnel preparation grants to colleges which attract and recruit minority students into special education, and could you describe some of those efforts?

Mr. Davila. We have already begun to make some in that direction, and I would like to Dr. Schrag to explain some of the activities that have already been planned.

Ms. Schrag. Thank you, Mr. Bartlett.

We have in fact implemented some efforts in that direction. Currently, all potential grantees are required to describe how they will meet minority needs. We have a special populations competition that we have changed to a minority competition and we are funding a number of projects in this area. We can provide you a listing and description of those for the record.

Mr. Owens. Would the gentleman yield?

Mr. Bartlett. I'd be happy to yield.

Mr. Owens. Have her just give the dates these things were implemented.

Mr. Bartlett. Could you give us the dates that you began to implement those?

Ms. Schrag. Yes, those were implemented this year.

Mr. Bartlett. This year?

Ms. Schrag. Yes.

It is true that there is a small number of Historically Black Colleges and Universities that receive multiple grants. We are initiating some activities in that area. We've had a meeting with the representatives from the HBCUs and we have begun efforts to seek more participation on our grant review panels from HBCUs, and are planning some technical assistance later on in the year relative to our various discretionary programs and the way applications need to be prepared, and some of the aspects of competitive programs.

Mr. BARTLETT. So you would yield for just a second—my data indicates that you funded 61 grants in personnel training in fiscal year 1989 under your old system that had a minority emphasis, or an emphasis on minority personnel, of which 11 percent went to historically black colleges.

A two part question: First, do you expect, then, for fiscal year 1990 and 1991, given your new procedures, to result in a larger number of grants going for personnel training with a minority emphasis, number one?

And number two: Is the Department then prepared to review those grant applications that came from historically black colleges since that is 36 percent of the university students who are black in the country as a whole? Do you expect more than 61 grants in the future, or a larger percentage? And would you expect any change in the number that go to historically black colleges?

Ms. SCHRAG. We are expecting additional grants beyond the 61 to be funded. We will monitor that closely in fiscal year 1990 and we will implement procedures in fiscal year 1991 to be certain that that is enhanced.

Mr. BARTLETT. It would be helpful, I think, for your purposes and for ours on the committee, if you would give us the data—and provide the data to yourself as far as your analysis to not necessarily single out only historically black colleges as the emphasis; but, first of all, to give us data on what level of grants that had that minority and that emphasis in minority personnel training.

And, second, to use as your test the test that's used in this proposed legislation by Chairman Owens, and that is those colleges that have at least 25 percent of their students as minorities. I think that is a fairer test than the relatively smaller group of historically black colleges themselves.

Do you have a sense of how many of those 61 then would meet that second test—the 25 percent of students being minority?

Ms. SCHRAG. No, but we can provide that for the record.

Mr. BARTLETT. If you would provide that for the record that would be very helpful.

Let me switch subjects, Mr. Secretary, to corporal punishment, if you will. It's not in this bipartisan proposal because Chairman Owens and I do have a significant disagreement over the issue.

If we were to, as a matter of Federal law, to prohibit corporal punishment from being imposed on any student with disabilities, could you describe the results of that in the classroom? That is to say, in the classroom, would that result in resegregation and in two different kinds of punishment being meted out—one for disabled students with disabilities and one for students without disabilities? And would that have a positive impact on students with disabilities or a negative impact, in your opinion, if we were to adopt the proposal that Chairman Owens has discussed, at least in the past, of a prohibition against corporal punishment for students disabilities?

Mr. DAVILA. Corporal punishment varies from State to State and policies preventing misuse should apply to all children. Dr. Schrag is familiar with some of the activities that occur in the States with regard to corporal punishment. I will ask her to add to this response.

Ms. SCHRAG. Yes, we would think that it is possible that such a provision could result in differential treatment of children with handicaps as compared to those without handicaps and feel that the corporal punishment activities in the States are moving forward and are comprehensive. There are 19 States, plus the District of Columbia, that have established corporal punishment laws governing all students, including those who are handicapped. As of 1989, there are seven additional States that are considering legislation during this school year. There are also some major cities—some 18 major cities—that have implemented corporal punishment policies.

We think that this should be a State matter and that we encourage States to move forward in this area, but that the handicapped should be dealt with in the context of all children.

Mr. BARTLETT. So, in your opinion, would it be helpful or harmful for a handicapped student, for that individual student at whatever grade, to have a different set of disciplinary requirements imposed on that student as on other non-disabled students?

Ms. SCHRAG. It could be harmful. It could be confusing. We think that the States and school districts should develop comprehensive corporal punishment policies for all children.

Mr. BARTLETT. On funding on personnel preparation, I want to ask you: We do have a set of decisions to make on personnel development. We are presently spending $71 million in the special education personnel development area. The Senate has proposed to increase that to $93 million for fiscal year 1991. This subcommittee has to make, at some point, a decision on what our authorization should be for the single area of the special education personnel development.

Now my question of you is, as you know, any dollar amount of authorization that we place in for additional money for personnel development is money that in effect is taken out of other discretionary grants and ultimately out of the State grant, although not explicitly so.

My question is: Do you have a recommendation on how much of an increase we should provide for the personnel development category, either in dollar amounts or in percentages?

Mr. DAVILA. I don't have a special recommendation in dollars per se, but we do have the need for highly qualified personnel in special education that will be able to meet demand—a demand for a very large number of teachers. We don't know for a fact that money is the answer to the whole question. There are people leaving special education for a number of reasons, many of them beyond our control. So it would be difficult to say exactly how many dollars will resolve the problem of need and quality.

Mr. BARTLETT. If I could paraphrase your testimony, you are essentially saying that more money in fellowships for special education personnel development, doesn't necessarily result in more teachers in the classroom?

Mr. DAVILA. There is a very huge gap between the numbers who are now being prepared for special education and the numbers that are actually needed. I believe that increased recruitment and retention practices are also important along with a better level of support in special education. It is difficult to say exactly what it would cost to fill the gap that exists.

Mr. **Bartlett**. Mr. Secretary, we are about to reauthorize these programs for a five-year reauthorization. At this point we are at an impasse, and it's not an impasse of Chairman Owens has one proposal and I have another one—we are both at an impasse to know precisely how to measure the amount of the gap or the need that we should try to fill for a shortage of special education teachers through personnel development.

So I would inquire, and we will try to keep—with the permission of Chairman Owens—we will try to keep the record open as long as possible, but I would ask if you could ask someone at your Department, or yourself, to develop what I'd probably refer to off the record as a quick and dirty study; but I'll just refer to it that way on the record.

In terms of giving us whatever data you can develop quickly to give us some guidance on the amount of the shortfall on how far behind are we, and what is your best judgment for funding for personnel development to meet that shortfall for the course of the next five years?

We have placed into this bill two provisions, which I assume you support. One is to require some additional information and data from the States to try to determine how many teachers are operating under a temporary certification.

And, secondly, to provide for fellowship forgiveness on a one-for-one basis. One year of service in teaching as a special education teacher would forgive a one-year grant.

If you have any recommendations for changing that we'd like to have it, but primarily we need some data that would give us some guidance on how much to increase the special education personnel development.

Ms. **Schrag**. Mr. Bartlett, I might indicate that we have looked at our most recent data submitted by the States last year and we can give you more detail in the breakdown but the States are projecting a need for 29,774 additional special education teachers. State by State there are additional data regarding the critical shortages in all types of personnel in special education.

Mr. **Bartlett**. So you are suggesting a 29,000——

Ms. **Schrag**. 29,774.

Mr. **Bartlett**. [continuing] 29,000 shortfall today——

Ms. **Schrag**. Yes, of teachers.

Mr. **Bartlett**. [continuing] of teachers.

And how many teachers does the special education personnel development fellowships train annually?

Ms. **Schrag**. Under the EHA Training Program, our grantees train approximately 13,000 per year; about 12,000 students may receive support at some stage each year.

Mr. **Bartlett**. Do we know how many of those actually go into special education?

Ms. **Schrag**. No, we don't have that data today.

Mr. **Bartlett**. Could you provide for us for the record, not the data, but some kind of a survey, some kind of an estimate of how many of those 12,000 go into special education as a result of that.

Ms. **Schrag**. [Nodded in the affirmative.]

[The information follows:]

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
THE ASSISTANT SECRETARY

Honorable Major R. Owens
Chairman
Subcommittee on Select Education
Committee on Education and Labor
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for the opportunity to elaborate on my testimony on the reauthorization of the Education of the Handicapped Act. I have responded to your additional questions in the order in which they appear in your letter. Also included in this letter is additional information that Congressman Bartlett asked me to provide for the record.

1. FUNDING A PRIORITY AIMED AT TRAINING TEACHERS TO SERVE MINORITY CHILDREN WHO ARE DISABLED

   a. When was this priority initiated?

      The first funding priority that was aimed at training teachers to serve minority children was established in fiscal year 1986. This priority was funded again in fiscal years 1987 and 1988. In fiscal years 1989 and 1990, the focus of this competition was enlarged to include other populations, as well as minorities, who, because of special characteristics, require professional competencies in addition to those needed for other infants, toddlers, children and youth with similar disabilities. Although projects that focus on the problems of minorities comprised the largest portion of grantees under this priority in fiscal years 1989 and 1990, this office is studying ways to increase the emphasis of this priority on minorities for fiscal year 1991.

   b. What was the total amount allocated for this priority?

      The funds that supported these priorities are as follows:

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Fiscal Year	Priority Focus	Amount Allocated for Competition	Amount Focusing on Minorities
1986	Minority Children	$1,561,000	$1,561,000
1987	Minority Children	3,001,000	3,001,000
1988	Minority Children	3,487,771	3,487,771
1989	Special Populations	3,450,167	3,095,592
1990 (Est.)	Special Populations	4,139,008	3,385,114
1991 (Est.)	Minority Children	5,000,000	5,000,000

c. Which higher education institutions have been funded under this priority? For what amounts? Of those funded, how many were HBCUs or other minority higher education institutions; and in what amounts?

A list of higher education institutions funded under this priority, and the amounts, is included as Attachment A. As indicated, a total of 94 grants have been awarded under this priority since fiscal year 1986; of this number, 19 grants have been awarded to HBCUs or other minority higher education institutions (see 2a below for definition of minority institutions).

2. MAKING A SPECIAL EFFORT TO SOLICIT GRANT APPLICATIONS FROM HBCUS AND OTHER INSTITUTIONS WITH HIGH MINORITY ENROLLMENTS.

a. When was this special effort initiated?

Efforts to encourage applications under the training program from minority institutions date back to at least 1968, but precise data on the dates and nature of early efforts are not available. For the past five years, we have made extra efforts to ensure that all HBCUs received a direct mailing of information on funding opportunities rather than simply depending on the FEDERAL REGISTER announcement. We now also have a list of other potential applicants with minority student enrollments that exceed 50 percent of their student bodies. Future direct mailings will be extended to the full list of minority institutions. In addition, we have met regularly with the Black Caucus of the Council for Exceptional Children to request their assistance in identifying and soliciting the names of qualified minority reviewers.

b. What percentage of student enrollment do you consider as high minority enrollment?

We consider institutions with minority enrollments of 50 percent or more to have high minority enrollment.

c. Describe the method used to solicit grant applications from these institutions.

Upon the publication of funding priorities OSERS conducts a direct mailing of grant announcements to HBCUs to ensure that they do not miss out on the general announcements of such opportunities. We also try to advertise funding opportunities at all professional meetings attended by our staff. For example, as indicated above, we have regularly met with the Black Caucus of the Council for Exceptional Children.

In addition, this year, staff have made presentations at two major meetings of Indian educators with the objective of increasing their participation in the program. On September 20, 1989, OSEP made a presentation at the American Indian Rehabilitation Research and Training Center Conference on Native Americans with Disabilities; on November 14, 1989, another presentation was made before the American Indian Higher Education Consortium. At these meetings, presidents of 23 colleges were provided with information about OSEP application procedures and programs.

d. What was the response by these institutions to your solicitation?

We cannot determine whether participation of minority institutions in our programs is a direct result of our extra efforts, or if these schools would have participated based on generally-available information.

e. How many grant applications did you receive?

Over the most recent four-year period, HBCUs or other institutions with high minority enrollments have submitted the following number of applications under this priority:

	Applications from HBCUs or Other Minority Institutions	Total Applications Received
FY 1986	11	56
FY 1987	8	64
FY 1988	9	53
FY 1989	6	59
FY 1990	8	69

f. Under what categories (i.e., personnel training, research) were these applications funded?

Virtually all of the grants awarded to HBCUs and other minority institutions have been funded under the personnel preparation program.

g. How much funding was allocated for this special effort?

Efforts to solicit grant applications from minority institutions are a part of the responsibility of several staff members. Funds allocated to this effort support staff travel to meetings (for example the Council for Exceptional Children conference on Indian education), extra mailings, and staff time spent on consultation with professional organizations and prospective grantees. It is not possible to quantify these efforts in terms of budget allocations since they are integrated into ongoing staff responsibilities.

3. PROVIDING INCREASED TECHNICAL ASSISTANCE TO PARENT PROJECTS TO INCREASE THEIR RESPONSIVENESS TO ISSUES RELATING TO PARENTS FROM MINORITY POPULATIONS.

a. Describe how this increased technical assistance is being provided. When was it initiated?

In 1990, funding for the Technical Assistance to Parent Projects (TAPP) was increased to permit the addition of an Urban Technical Assistance Specialist to carry out assistance to inner city parent projects. This person will be responsible for gathering, collating, and disseminating information, conducting training activities, and providing training to existing projects and potential applicants, and will use the existing technical assistance process and methods, including parents in existing projects in Detroit, Chicago, and Philadelphia, and other consultants as needed. One major objective of this project is to increase access of parents to parent projects in major urban areas including New York, Baltimore, Washington, D.C., Miami, and Los Angeles, all cities with large minority populations. In addition, we have increased the responsibilities of the TAPP Select Committee on Underserved Groups (composed of minority representatives from the Black, Hispanic, Asian, and Native American groups). The purpose of this Committee is to advise the TAPP project on its major activities to ensure that parents of children with disabilities have appropriate access to the services of the parent training and information projects. The Committee is currently developing additional technical assistance materials for use by parent projects in improving services to minorities.

b. Has this required the expenditure of additional monies or other resources; if so, how much money and what kinds of resources?

The increase in funding directly related to activities described in 3(a) will amount to about $44,000 per year.

c. Did you utilize any minority entities or individuals in the provision of this technical assistance. If so, who were they?

The TAPP Select Committee on Underserved Groups, which is the principal advisory group to TAPP on minority affairs, includes minority members. In addition, plans are underway through TAPP for a national conference in 1990-91 to increase services and participation of underserved minority parents. With respect to the efforts of OSEP staff in particular, several staff who are members of minority groups have responsibilities in this area.

4. ENSUR[ING] THAT THERE IS AN INCREASED REPRESENTATION OF MINORITY REVIEWERS ON PEER REVIEW PANELS, ESPECIALLY ON THOSE THAT SUPPORT TEACHER TRAINING ACTIVITIES.

a. What process is being utilized to attract minority individuals as reviewers?

We have encouraged faculty from minority institutions to become involved as peer reviewers in a variety of ways. Specific efforts have included meetings with the Black Minority Caucus of the Teacher Education Division of the Council for Exceptional Children and with representatives from minority speech and hearing programs to solicit applications for field reviewers. OSERS is currently forming a work group to identify other vehicles for identification of minority grant reviewers.

b. How many minority reviewers did you have before this special effort and how many do you have now? What is your goal?

The number of minority reviewers in our field reader pool has increased from 295 to 361 over the past year. In terms of use of minority reviewers, in our largest single grant program, the proportion of minority readers increased from about 4 percent in 1989 to 26 percent in 1990.

c. How is this effort different from the current authority of the Assistant Secretary to approve all peer review panelists?

The Assistant Secretary approves the use of all peer review panelists, including those who are minorities. The issue of minority reviewers is considered in connection with the approval of all panelists by the Assistant Secretary.

5. SPONSOR[ING] TECHNICAL ASSISTANCE AND TRAINING PROGRAMS FOR PERSONNEL FROM HBCUS AND OTHER INSTITUTIONS WITH HIGH MINORITY ENROLLMENTS ON GRANT PROGRAM AND APPLICATION PROCEDURES.

a. When will the technical assistance and training programs be initiated?

OSERS will provide additional technical assistance and training programs as early as June 1990. Specific strategies that we will pursue are as follows:

(1) OSERS will convene an expert group of minority special educators to advise us on how to identify, design, and provide assistance to HBCUs and other minority institutions that will increase their knowledge of application procedures and, in addition, improve the quality of their applications.

(2) OSERS will contact major groups that represent the interests of minorities to arrange specific times and strategies for providing structured assistance in grant application procedures, and to solicit their assistance in identifying qualified reviewers who are minorities. Among the groups that will be included in this effort are the National Alliance of Black School Educators (NABSE), the National Association for Equal Educational Opportunities (NAFEEO), the Minority Caucus of CEC, and the Minority Caucus of the American Speech and Hearing Association (ASHA).

(3) OSERS will undertake a strategy evaluation to determine barriers that exist with respect to (a) increasing the number of applications from minority institutions under EHA discretionary programs; and (b) improving the responsiveness of OSERS' funding priorities to the special education needs of minority children and youth with disabilities. This evaluation will identify problems as well as both short and long range strategies for improvement. The evaluation will be conducted by COSMOS Corporation and will include a work group consisting of representatives of each OSEP division.

b. Describe how the technical assistance will be provided and by whom.

Technical assistance will be provided in a number of ways. First, structured training sessions will be provided to representatives of minority institutions. Sessions will be available on-site, where a gathering of a number of representatives can be achieved, or in Washington, D.C. in the offices of OSERS staff. We will also make special arrangements at national or regional meetings of various groups representing minority institutions, to provide them information about OSERS programs as well as guidance on how to submit applications to grant programs. We also expect that additional strategies for technical assistance will be identified through the strategy evaluation referenced above in question 5(a).

c. Describe the training program and which staff will be providing the training.

The training and assistance described above will be provided by OSEP staff who are knowledgeable about both application procedures and program priorities. In addition, each division in OSEP will have a representative available to provide ad hoc assistance to individual institutions as necessary. The training program will be similar to the program that OSEP staff currently uses, but will be modified to include improvements identified through the activities described in 5(a) above.

6. ACCORDING TO YOUR ORAL REMARKS, OSEP FUNDED 61 GRANTS IN 1989 IN PERSONNEL TRAINING WITH A MINORITY EMPHASIS. OF THESE, 7 GRANTS, OR 11 PERCENT, WENT TO HBCUs.

a. Which institutions received the 61 grants and for what amounts?

In fiscal year 1989, a total of 136 grants with a minority emphasis--60 new and 76 continuation--were awarded in all competitions, including the Special Population priority, under the Part D training program. A complete list of these grants and award amounts is included as Attachment B.

b. How many HBCUs and other minority institutions (25% minority enrollment) submitted applications for this competition?

As reported in our answer to question 2(e) above, six applications for new awards were submitted by HBCUs or other minority institutions under the "Special Populations" priority in fiscal year 1989. An additional three applications were funded as continuations under this competition in that year. However, we do not have data on the number of applications submitted by minority institutions under the other training competitions funded in fiscal year 1989. Because a majority of the grants awarded under the training program that emphasize minority issues were awarded from these other competitions, it is likely that additional applications were submitted under them by minority institutions.

c. What was the purpose of these grants?

The purpose of the majority of grants funded under the training program was to provide training specific to the needs of children who were both disabled and minority. The projects cover a very broad range of specific topics including:

- Training of speech and hearing personnel and educational diagnosticians to meet the unique needs of limited English proficient students.
- Training indigenous Indian personnel as special education paraprofessionals.
- Training special educators in specific skills involved in working in inner city schools.
- Several projects aim at increasing awareness of milticultural issues throughout the institutions' special education curricula.
- A few projects are general special education programs that happen to draw students primarily from minority populations.

Abstracts of seven grants awarded to HBCUs are attached. (See Attachment C).

7. THE OTHER AREA OF YOUR TESTIMONY WHICH RAISES CONCERN IS THE IMPLEMENTATION OF THE NEW ADMINISTRATIVE AND MANAGEMENT PROVISIONS AT OSERS. YOU MENTIONED THAT THE PROPOSED FEASIBILITY STUDY ON AN INFORMATION MANAGEMENT SYSTEM WITHIN OSERS WAS UNNECESSARY BECAUSE YOU ALREADY KNOW WHAT WAS NEEDED.

a. What procedure or method (i.e., needs assessment, survey feasibility study, etc.) was utilized in determining the kind of information management system needed at OSERS? What staff, consultant firm, or other individuals did the Department involve in this determination? Provide me with the plan developed as a result of this process.

Over the past several years OSERS has utilized the services of several consulting firms and specialized staff to develop information systems that are capable of categorizing, indexing, and abstracting program information for the purposes of making this information accesible to the field, to Congress, and to other interested parties. As I indicated in my testimony, our major obstacles in designing and implementing the system have been the lack of computer hardware and software resources, and staff resources necessary to enter and analyze data.

The computer firms that have assisted in developing and maintaining program information systems include: Pinkerton Computer Consultants, Arlington, Va; Data Transfer Associates, Browning, Mo.; CBMI Corporation, Arlington, Va; and CMIS Corporation, Vienna, Va. The work of these firms is coordinated through the Department's Office of Information Resources Management (OIRM).

There are several components or subsystems that comprise our system. The major component, originally called the "Part E" system, was developed by OSEP with the assistance of Pinkerton Computer Consultants for the purpose of building a database on all research projects funded under Part E of the Education of the Handicapped Act. Under this system, project abstracts and other information are entered, maintained, and disseminated to the field through the ERIC Clearinghouse of the Council for Exceptional Children. The system provides abstracts of funded research that deal with subjects including: Assessment, Elementary Grades, Infants and Preschool Children, Instruction, Language, Least Restrictive Environment, Parents, Pupil Outcome, Service Delivery Systems, Social Skills, Subject Matter, Teacher Training, Technology, Vocational and Secondary Education; and Transition to Adult Life. This information can be organized and reported on by: Fiscal Year, State, Agency, Age, Disability, Severity, Parental Issues, Minority, Service Setting, Geographical Setting (urban/rural), etc. Over the past two years, this system has expanded to include projects funded under Parts C, F, and G of the Act. The National Institute on Disability and Rehabilitation Research (NIDRR) has recently contracted with Data Transfer Associates to develop similar capabilities for NIDRR projects. We anticipate that we will eventually expand these systems to include other discretionary programs in OSERS.

In conjunction with the "Part E" system, the Department's Grants and Contracts Service has implemented the "Grants and Contracts Management System" (GCMS) over the past four years. This system developed by CMIS Corporation, is capable of providing numerous reports on all discretionary grants and contracts awarded in the Department. Information in this system includes project abstracts as well as all funding information relating to the projects. We have recently developed a telecommunication link between the GCMS system and the "Part E" system to allow for downloading of data from one system to another.

Enclosed with this letter (Attachment D) are the following documents pertaining to OSERS' information systems:

A. CEC Preliminary Estimate for the OSEP Division of Educational Services. This document describes procedures for expanding the "Part E" system to include other EHA discretionary programs, including the Deaf-Blind Projects, Severely Handicapped Projects, Postsecondary Programs, Secondary and Transitional Services, Early Childhood Education, and Media and Captioning Services.

B. Project Tracking System--User Documentation. Detailed documentation of the capability of the project tracking system. This document uses "HCEEP" (Handicapped Children's Early Education Program) as the example program, but, in fact, all EHA discretionary programs will be able to be included within this system. Produced by Pinkerton Computer Consultants.

C. Master Directory, Research Projects Currently Funded--ERIC. Sample report using the "Part E" system in conjunction with the ERIC Clearinghouse. This report includes basic information on all research projects that were funded by OSEP through December 1, 1988.

D. Grants and Contracts Management System--GCMS Reports Manual. Excerpt of GCMS manual includes description of purpose and sample report (on page III-48) of an abstract of an NIDRR grant.

E. GCMS Documentation--Volume III--User Handbook. Excerpt of the GCMS manual includes documentation of Abstract Data Entry procedures (pp. 129-138).

b. What is the design of the system you need (i.e., hardware and software configuration)?

Essentially all the design components for an OSERS-wide management information system already exist. The next step in the design and implementation of this system is to refine the current application packages used to manage information in OSEP and combine them with the Department's Grants and Contracts Management System (GCMS).

Until recently, OSEP's Part E system and the Department's GCMS have operated independently, requiring data entry for each system (double data entry). The GCMS now is able to down-load data to IBM system-compatible personal computers, which allows OSERS and OSEP staff to use these data in their computer applications. The current difficulty results from the lack of a vehicle to automate the down-loading of GCMS data to OSERS personal computers. The installation of a Local Area Network (LAN) to achieve this automation is planned for late April of this year.

In refining these software programs, OSEP plans to expand and combine their functions so that these application packages can be used by all program units. With the prospect of a LAN in the near future, information can be down-loaded from the Department's GCMS system. The private contractor, CBMI, will be employed to refine the software programs and assist in developing a Program Information Management System. CBMI is already working with software applications to achieve the objective of the management system. CBMI as well as Pinkerton, Inc. has also been assigned tasks linking OSEP software programs to GCMS and other pertinent computer systems.

In addressing other design requirements, OSERS and its major components have been working with the Office of Information Resources Management (OIRM) to acquire adequate hardware and software to fulfill their overall ADP needs. OSERS has requested 18 additional personal computers, and an additional 108, 25 for OSEP, for long-term objectives. Software includes Word Perfect 5.1 for each machine and dBase, Lotus, and other commercial software programs on selected machines.

c. What resources will the system require for implementation and maintenance?

Provided OSERS receives the hardware and software indicated above, OSERS should have adequate equipment resources to implement and maintain the information management system. The next most important element of this process is training supervisory personnel to use and maintain the system.

The Department's Horace Mann Learning Center is active in training ED staff in the use of some of the more widely used commercial software and the Grants and Contracts Service has a training program on the GCMS system. OSERS and OSEP ADP staff are working on the issues related to training staff to use the GCMS system in conjunction with the LAN, the Part E system, and other software programs.

d. What cost estimate do you have for the implementation and maintenance of the system. Has this been budgeted?

OSEP has budgeted $45,200 in fiscal year 1990 and estimates that $56,500 will be required each year through 1995 for microcomputer support. Included in this microcomputer support budget is $40,000 for software development for fiscal year 1990. Estimates include $50,000 for each fiscal year thorough fiscal year 1995.

The following is additional information that I indicated during the hearing that I would provide to the Subcommittee in response to questions from Congressman Bartlett.

1. Please provide evidence that the efforts with respect to minority outreach you mentioned in your testimony are happening. Current efforts you mentioned include: funding a priority aimed at training teachers to serve minority children who are disabled; making a special effort to solicit grant applications from HBCUs and other institutions with high minority enrollment; providing increased technical assistance to parent projects to increase their responsiveness to issues related to parents from minority populations.

Response: Please see response to questions 1, 2, and 3 above.

2. In the area of minority grants, is the Department making a special effort to emphasize personnel preparation grants to colleges which attract and recruit minority students into special education?

   Response: See response to questions 1 and 6 above.

3. What number of personnel training grants are you currently funding that have an emphasis on training minority teachers? How many personnel training grants are currently going to institutions where at least 25 percent of their students are minority?

   Response: See response to question 6 above.

4. Please provide us guidance on the amount of the special education teacher shortfall and what is your best judgement for funding for personnel development to meet that shortfall for the course of the next five years?

   Response: States have reported that in the 1987-88 school year, there were 29,774 special education teacher positions either unfilled or filled by personnel who are not fully certified. This shortage of personnel is the function of the same supply-and-demand principles that affect other fields such as education in general, engineering, or the medical professions. The Training Personnel for the Education of the Handicapped program seeks to increase the supply of teachers by providing short-term educational incentives such as fellowships to encourage students to pursue careers in special education. Long-term factors such as salaries, promotion potential, and working conditions are not addressed through the program. It is not clear how students weigh the short-term incentives provided under this program in making their career decisions. It is possible that, regardless of the funding level for this program, there will continue to be shortages. We believe that the program has some impact on the supply of personnel, based on reports from our grantees that without Federal support for fellowships, recruitment would be far more difficult.

5. We have placed into this bill two provisions, which I assume you support. One is to require some additional information and data from the States to try to determine how many teachers are operating under a

temporary certification. And the second one provides for fellowship forgiveness on a one-for-one basis--one year of service in teaching as a special education teacher would forgive one year of the fellowship.

Response: The Department recognizes that we need more information on the number of personnel who are providing special education or related services under temporary certification on licenser, to help us determine how to allocate our personnel preparation resources between, for example, assisting those individuals becoming fully qualified and training new special education personnel. We, therefore, do not object to a requirement to collect that information. We support the fellowship repayment (forgiveness) provision. The Department believes, and has previously proposed, that individuals receiving assistance under the Special Education Personnel Development Program must either enter the field for which they received training, or repay the scholarship funds they received. This type of requirement will help ensure that children with handicaps actually benefit from the Federal funds used for special education scholarships.

6. What is the projected need for additional special education teachers States submitted to OSEP last year?

Response: Data collected by OSEP each year from the States on personnel needed to serve children with handicaps represent the only national estimates of special education personnel need. Two measurements are used: a) counts of personnel needed to fill budgeted vacancies; and b) counts of personnel needed to replace less than fully certified personnel.

For 1987-88, States and Insular Areas reported that 29,774 additional teachers were needed to fill vacancies and replace uncertified staff for students aged 3-21 years old. For 6-21 year olds, the demand was greatest for teachers of students with learning disabilities (7,759 or 29.1 percent), teachers for children served in cross-categorical classes (4,398 or 16.5 percent), and students with emotional disturbances (4,388 or 16.5 percent). While the number of teachers employed decreased by 838 between 1986-87 and 1987-88, the number of teachers needed decreased from 26,798 to 26,653, according to State reports (-.5 percent).

States reported needing 15,571 additional staff, other than teachers, for the 1987-88 school year, an increase of 27.1 percent over the number needed in 1986-87. Demand for personnel in 1987-88 was greatest for paraprofessionals (42.5 percent), psychologists (8.5 percent), and other non-instructional staff (10.5 percent). As in 1986-87, States continued to report paraprofessionals and non-instructional staff as most needed.

7. Please provide for the record some kind of an estimate of how many of the 12,000 teachers the special education personnel development fellowships train annually actually go into special education as a result of that training.

   Response: Based on information provided by grantees, we believe that a vast majority of trainees supported under the personnel development program do, at least initially, go into the field of special education. Over the years, follow-up studies have suggested that special education graduates have tended to follow their training with appropriate careers.

   More than 60 percent of financial assistance under this program is awarded each year to students seeking masters, specialists, and doctoral degrees. We believe that personnel who devote this level of commitment to obtaining graduate degrees will generally not opt for employment in other professions.

8. We are told that 61 total grants were given for personnel development. Seven of those, or 11 percent, went to HBCUs. Could we have your figures as well on that item and we would appreciate having any other pertinent statistics as well.

   Response: See response to question 1(c) above.

If you have any questions about this information, do not hesitate to contact me. I look forward to continuing to work with you and Members of the Subcommittee on the reauthorization of these important programs.

Sincerely,

Robert R. Davila

Enclosures

cc: Honorable Steve Bartlett

Mr. **Bartlett**. One last question—I just want to make sure I understand your testimony.

On the subject of attention deficit disorders, you are testifying that in your judgment, ADD, or attention deficit disorder is already classified as a learning disability and as a disability that it is a disability under this Act.

Is that your reason that you don't think it should be specified?

Mr. **Davila**. Ms. Schrag, please.

Ms. **Schrag**. Yes, we believe that students with an attention deficit disorder who are in fact handicapped are currently being served by the States within three categories—the first category being learning disabled, the second category being other health-impaired, and the third category being emotional disturbance.

We think that there is currently a multidisciplinary team approach in every school district that in fact does provide services for those that are eligible. We know that this is a very important group of children—it's a very heteorogenous group of children—some of which have attention problems but do not qualify and are not eligible for special education.

We are concerned that by adding ADD to the definition of learning disabilities additional groups of children that do not qualify will be forced inappropriately into the category of learning disabilities and would drive up the numbers.

Mr. **Bartlett**. Is ADD classified under the Department regulations at all as a particular disability?

Is it classified by name?

Ms. **Schrag**. It's not classified currently by name in the regulations, no.

Mr. **Bartlett**. Are there other particular disabilities that are classified by name so it's different from Down Syndrome, is that what you're saying, or is it the same? Is Down Syndrome classified by name?

Ms. **Schrag**. No, it is not.

Mr. **Bartlett**. So the regulations tend to be——

Ms. **Schrag**. More generic.

Mr. **Bartlett**. [continuing] generic?

Ms. **Schrag**. That is correct.

Mr. **Bartlett**. And your suggestion is that if we place one particular disability into the statute—what are you suggesting that does?

Ms. **Schrag**. By placing attention deficit disorder within the definition of learning disabilities, it could drive up the numbers of children reported as having learning disabilities because it could include children with attention deficit disorder who are handicapped as well as some of those children who have attention problems but in fact are not disabled.

Mr. **Bartlett**. Are there students that, in your opinion, who in fact do have a disability called ADD who are not being served?

Ms. **Schrag**. There are definitely students with attention deficit disorders, and we believe that there are appropriate evaluation safeguards and a process in place for each school district to identify which of those children in fact do qualify for special education.

Mr. **Bartlett**. Let me see if I can paraphrase your guidance to us.

You are suggesting that ADD is a specific disorder that is clinically diagnosable?

Ms. **Schrag**. That is correct.

Mr. **Bartlett**. And that there are other students who have short attention spans that is not a disorder. And you would have a fear that if you place ADD into the statute then school districts would rush to place those students that have short attention spans or other non-disorder kinds of behavior patterns into a learning disability category?

Ms. **Schrag**. In diagnosing children as attention deficit disorder, physicians use a medical model, a DSM-3 type of classification. This classification does not have an education threshold and physicians do identify these children as attention deficit disorders.

Within that group there are some that do not qualify for special education and there are others that do because of the educational difficulty in the classroom.

Mr. **Bartlett**. Thank you.

Thank you, Mr. Chairman.

Mr. **Owens**. Before we move to Mr. Smith, Dr. Schrag, is it?

Could you identify yourself fully for the record?

Ms. **Schrag**. Yes. My name is Judy Schrag. I am the Director of the Office of Special Education Programs within OSERS.

Mr. **Owens**. Thank you.

Mr. Smith?

Mr. **Smith**. Thank you, Mr. Chairman.

I would like to, first of all, commend you and Mr. Bartlett for an extraordinary amount of work, and I understand all the—you haven't reached agreement on everything but it's a whole lot different than the last time that I had an opportunity to see where we were, and I think the time has been well spent.

I do have a couple of questions for Dr. Davila.

First, on a slightly different point, I think, on page 9 of your testimony you state that you object—I'm quoting—"the proposed revision of section 610 regarding management and structure of peer review panels"—I'm sorry, I was on a line ahead of myself—"under 617 to conduct a feasibility study and implement"—I'm sorry; let's start again.

It's on page 9 of your testimony, four lines from the bottom, and it begins, you object to "the requirements under section 617 to conduct a feasibility study and implement an information system in OSERS."

I was just wondering if you could tell me why.

Mr. **Davila**. With respect to an information system?

Mr. **Smith**. Yes.

Mr. **Davila**. Because it's not a question what we need—we know what we need. The point I was trying to make to the Chairman is that we know what we would want in a system. What we need actually are resources to obtain the system.

Mr. **Smith**. Thank you.

My second question, because I think the issue of resources really runs throughout, and so far, just underneath the surface of this conversation today, is my understanding that your Department or the administration has not taken a position on funding for these programs because there is not at this point an authorization; is that accurate?

Mr. **Davila**. That's correct.

Mr. **Smith**. Are you prepared to take a position at the point where there is an authorization or have you made allowances for that in the initial planning in the Department?

Mr. **Davila**. Yes, sir. As soon as we know what the additional activities will be added by the Congress, then, obviously, we will come back with a recommendation.

Mr. **Smith**. Is there any way you could give us a hint of which way the wind was going to blow? Quite frankly, I know it puts you in a difficult position, and I don't for a minute sit here and assume that you are the architect of this particular policy, but when we're talking about resources and when you are advocating for more resources—and my third point will have to do with my own advocacy for a lot more resources, it really doesn't strengthen our hand when we have no base to stand on in terms of the administration's policy.

Mr. **Davila**. I understand. This morning we have identified and discussed critical issues in education of young people who are disabled, and we want to be in a position to address them appropriately.

Mr. **Smith**. So the answer is, when we authorize the bill you will come up with a number.

That's fine.

I think, Mr. Chairman, my concern—and I appreciate the bind that Dr. Davila is in, and I, too, salute you for the job you are doing here today as well as in the months prior.

My concern is that—and the reason I picked out this particular issue on page 9 of the testimony is that in many, many regards, whether it is the training of teachers or the support of teaching personnel already in the profession; or the other uses of money for evaluations, for studies, for you name it, but in fact the problem is we have far too few dollars chasing a growing perception and ability to identify need.

I, for one, would like to see us as a subcommittee at some point address the much, I think, tougher political issue of over a period of time moving, not only towards more aggressive appropriations for the discretionary programs but also, frankly, developing a three- to a five-year plan for finally keeping the Federal commitment to funding State grants at 40 percent per pupil cost.

What we will do, we will argue about all the issues that you have raised, and we will disagree about them on this committee—and it is a classic behavior of people when there aren't enough resources to define more precisely, to separate in and to separate out, and to really quarrel, more and more bitterly, over the fewer and fewer resources that are available. And that is in effect what, to some extent, this reauthorization is about. When in fact the crying need—and I fear at the same time; let me finish that—that we are, with the best of intentions, rearranging the deck chairs on the Titanic.

We know that this system, which is a critical civil right for millions of children and their families, is in danger of imploding on itself. We lack personnel. We have tremendous negative politics around it, all over this country, because education is funded at the local level in this country—State level has grown to some extent, Federal level clearly has not, in real dollars—in this case, anyway.

And that in fact there's a crisis of funding, resources and personnel that is going to hurt not only the dream of special education but I think the ability of the State schools to continue to offer it in the 21st century. And the crux to it all is funding those children at 40 percent of the average per pupil cost, which was, after all, the promise that this Congress and the President of the United States made to communities and to those children some 14 years ago when they first funded the program.

So forgive me for what may seem like a tangent, but I don't think it is. I know you are committed to more money. I suspect every person in this room is committed to more money. But unless we get as serious as we know how about one getting a little bit more money into the discretionary programs so we aren't fighting over scraps on the table when we try to fund some of the ideas that Members have had; and also we get deadly serious about the larger issue of moving over a five-year period to full funding for State grants, which is going to be tough to do—but we do tough things around here, occasionally. And sometimes we're able to fund defense projects. Some people think that's tough, other people think that comes a little easier.

But we have to be that serious about this or in fact all of the studies, all of the evaluations, all of the funds to special colleges and programs to bring people into the profession aren't going to matter, it seems to me. Because what I hear at the other end of the pipeline in our communities is anger about the cost, fear about the litigation, confusion about the regulations, and a growing sense that somehow it's these children's fault—and it's exactly whose fault it is not.

So forgive me for that editorial comment but I think it does relate to information management systems and your concern that you know what you need. I think it would be helpful if the administration, frankly, were able to give us even a general overview of what they were going to find, because we are in a game here—find in terms of the money that would be appropriated for these programs or what their recommendations would be—because we're in a game here where a single percentage point means an enormous amount to this committee's deliberations.

Thank you.

Mr. OWENS. I'd like to associate myself with the editorial comments of my colleague.

[Laughter.]

Mr. OWENS. Maybe I should reconsider immediately.

I would like to take note of the fact that we've had some statistics offered here which conflict with some other information we have, so I would like to request my colleague, Mr. Bartlett, to submit for the record also his database—the source of his data for the assumption that 1,200 students at Historically Black Colleges and Universities is one-half of one percent of the total enrolled in special education.

We have some other figures which show differently and we'd like to get our databases together and be able to move from one set of data as we finalize this bill in the next few weeks.

Dr. Schrag, your statistics also would be helpful. We are told that 61 total grants were given for personnel development. Seven of those, or 11 percent, went to Historically Black Colleges and Universities. I don't know whether that was your figure or Mr. Bartlett's. But could we have your figures as well on that particular item and any other pertinent statistics. We will get them together, compare them, and see if we can agree on a common set of data before we move forward.

Mr. **Bartlett**. If the chairman would yield, I'd be happy to submit the data that I've collected and summarized based on the good work of the Minority staff, specifically Sally Lovejoy.

I have been accused of making up data in the past, but I never have, and I didn't in this case.

Mr. **Owens**. Not by this chairman.

Mr. **Bartlett**. That specific amount, that is one-half of one percent of entering freshmen at Historically Black Colleges and Universities said that they plan to enter special education, so that is a different number than the number of students in special education at HBCUs—it was the only number that was available.

It seems to me intuitively it's probably about the same in terms of second, third, and fourth year students, although I don't know that for certain. And it did come from the UCLA Higher Education and Research Institute; an organization which I have no idea whether to trust or not, it's just the only one I could find.

[Laughter.]

Mr. **Owens**. All right, that figure we'll accept. One-half of one percent of entering freshmen is different from total enrollment at Historically Black Colleges and Universities.

Mr. Secretary, again we want to thank you. We look forward to working with you and we certainly want to examine some of the new initiatives that have been taken. We will definitely be submitting to you some additional questions and be in contact as we finalize this very important legislation.

Thank you again for appearing.

Mr. **Davila**. Thank you, sir.

Mr. **Owens**. Our next panel is Mr. B. Joseph Ballard, Director of the Office of Government Relations, Council for Exceptional Children; Ms. Norena Hale, President of the National Association of State Directors of Special Education, and Ms. Virginia Richardson, the Representative of the Consortium for Citizens with Disabilities.

We have copies of your written testimony, which will be entered in its entirety in the record. We would like not to limit your time but usually panelists take from five to seven minutes to elaborate on their testimony. We hope that we can maximize the amount of time available for questions.

Mr. Ballard, would you like to begin.

STATEMENTS OF B. JOSEPH BALLARD, DIRECTOR, OFFICE OF GOVERNMENTAL RELATIONS, THE COUNCIL FOR EXCEPTIONAL CHILDREN, RESTON, VIRGINIA; NORENA HALE, PRESIDENT, THE NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION, INC., AND VIRGINIA RICHARDSON, ON BEHALF OF CONSORTIUM FOR CITIZENS WITH DISABILITIES TASK FORCE ON EDUCATION

Mr. BALLARD. Thank you very much, Mr. Chairman.

I am Joseph Ballard. I am Director of Governmental Relations for the Council for Exceptional Children.

Before beginning specific comments, Mr. Chairman, I want to first of all thank you and the staff of the Majority and the Minority for the great accessibility that we've had over the last year in the preparation of what is now the initial draft bill before us. We are very grateful for that.

I'd also like to say, if I may, about the overall bill, whatever particular comments or problems any one of us may have, the overall bill—I've got to congratulate you for timeliness and attention to current needs in this draft legislation.

Permit me to summarize not all the points that we include in our testimony and surely not all of the issues before us but at least a couple in the limited time that I have right now, permit me to read on the issue of definitions.

The draft bill would add the categories of "traumatic brain injury" and "autism" to the statutory definition of children with disabilities. While we appreciate the concerns that have led to this proposed inclusion, CEC has expressed its opposition to the addition of new categories in the statute.

We are deeply concerned that adding additional categories takes us further down the road in the labeling of children and will require burdensome new data-gathering responsibilities. We wish to emphasize that CEC has always supported and will continue to support the delivery of appropriate special education to these children. That is not the issue. We believe that the populations represented by these categorizations are or can be appropriately covered through the existing statutory and regulatory framework.

Further, the draft bill adds to the statutory definition of special education the following: ". . . the provision of transition services, including instruction, rehabilitation counseling, and functional vocational evaluation for transition from school to work or to postsecondary education."

CEC has frequently expressed its concern that Federal policy assist in the crucial area of transition, and we understand the basis for this proposed inclusion in the definition. Permit us to stress that any addition to the EHA definition of special education places a new legal responsibility upon the States and their school districts.

For instance, the "at no cost to parents or guardians" provision is contained in the EHA definition of special education. Thus, since such an inclusion can fairly be characterized as a new mandatory responsibility, we feel that the implications of this proposed inclusion should be exhaustively reviewed before this action is taken.

Further, no definition of transition services is offered to accompany this requirement.

Secondly, if I may, on the issue of goals for minorities and underserved populations; we very much applaud this section and its overall intent. It is CEC's conviction that the full instructional needs of children and youth with handicaps who also may be members of racial and ethnic minority groups, limited English proficient, or disadvantaged, have not been fully met.

Correspondingly, we observe (a) a serious shortage of properly trained teachers and other education and related services personnel to appropriately serve culturally and linguistically diverse children and youth in need of special education; (b) an under-representation of special education and related services personnel who are members of racial and ethnic minority groups; (c) a need for new and increased knowledge regarding the identification, evaluation, placement and provision of services to culturally and linguistically diverse children with disabilities; (d) a need for improved parental and family involvement throughout early intervention in special education process and; (e) a need for increased communication and improved collaboration between professionals and programs serving children with disabilities, children of limited English proficiency, disadvantaged children, migrant children, American Indian and Native Hawaiian children, and other children with special needs and; (f) and under-representation of individuals with disabilities.

Mr. Chairman, we applaud the goals, as I said before, contained in the segment of the draft bill titled "Goals for Minorities and Underserved Persons." At the same time, I must tell you we're having some problems with the overall construction of this section.

Further, we believe that an earmark of one percent of the total funds available under Parts C through G is not necessary to achieve the objectives of this segment, nor do we believe that the creation of such an earmark is advisable as a precedent.

I won't get into the details here, Mr. Chairman. we believe we shouldn't complain unless we have an alternative, so we've specified a number for a possible other course of action.

Let me simply comment briefly on a few other aspects of the bill. Thank you very much for an enlarged body of language on the issue of comprehensive personnel development by the States. We badly needed an addition on that language clarifying what needs to be done, and the acronym, of course, is CSPD.

May I mention also the Regional Resource Centers and the attentiveness to some changes that were needed there. Mention also the deaf-blind program. We have supported the Deaf-Blind Coalition on the changes that they have sought in that section that is included in your bill.

We wish to also express our sincere gratitude for a new discretionary program addressing the needs of children and youth with serious emotional disturbances. I am afraid that anything short of a kind of focus that you have proposed—and I would say that the other body has also proposed—anything short of that would be inadequate in addressing the needs of these children at this point in history.

I wish to also congratulate on the revised secondary and transition section. I would simply say I think it needs a healthy authority if it is to operate effectively, especially when looking at the joint grants between the State education agencies and the rehabilitation agencies.

And, finally, your revamping of Part E. which I think is consistent with the flexibility, but also the focus that is needed, by the way, Part E research, for the 1990s.

Quickly, in the interest of time, you will note in our testimony that we have some specific difficulties with sections of Part D, Personnel Development.

May I also mention that we applaud the amendments. I think they came primarily from Mr. Bartlett in this instance for primary referral and early intervention. We think that though this is not the official time for reauthorization of Part H, these provisions are needed and we thank you for their inclusion in the draft bill.

Finally, may I simply say that I did not include it in the testimony but we wholeheartedly endorse the proposal to reverse the Supreme Court decision on the question of the right of our citizens to sue the State on violations of EHA.

Thank you very much, Mr. Chairman.

[The prepared statement of B. Joseph Ballard follows:]

STATEMENT OF

THE COUNCIL FOR EXCEPTIONAL CHILDREN

to

THE SUBCOMMITTEE ON SELECT EDUCATION

of

THE COMMITTEE ON EDUCATION AND LABOR

with respect to

REAUTHORIZATION OF PARTS C-G OF THE EDUCATION OF THE HANDICAPPED ACT

February 20, 1990

Submitted by:
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General Comments

Mr. Chairman and members of the Subcommittee, The Council for Exceptional Children (CEC) is pleased to present the following statement regarding the reauthorization of the discretionary programs under The Education of the Handicapped Act (EHA). CEC is the international professional association of persons involved in and concerned about the education of students with disabilities and students who are gifted and talented.

We are only one and one-half years past the thirtieth anniversary of the contemporary era of federal involvement in the education of students with handicaps. While most public and political attention over the past years has been focused on Part B of EHA, more commonly referred to as P.L. 94-142, it has been the varied discretionary programs under the Act that have provided a vital underpinning of the federal role in special education. It has been these programs that have facilitated creating the knowledge, personnel, system designs, and public attitudes that have enabled the United States to have one of the most comprehensive systems of special education in the world.

Over the past three decades, it has been the leadership of the Congress that has brought about and protected the federal role in special education. You and your predecessors have approached this responsibility with an understanding of the delicate balances necessary for effective partnerships with state and local governments, institutions of higher education, professionals, parents, and other interested parties. It is this understanding that we believe must continue to shape policy making as we face the challenges of the coming years.

The Office of Special Education Programs (OSEP) in the U.S. Department of Education directs 12 major discretionary programs and under these programs approximately 105 subprograms are administered. In FY 1990, roughly $180 million is being awarded to state education agencies (SEAs), local education agencies (LEAs), institutions of higher education (IHEs), and other agencies and organizations. This constitutes about eight percent of the OSEP budget.

The major functional purposes of these activities include research; demonstration, specialized direct services; technology development; information dissemination; technical assistance; and evaluation and special studies.

As we examine the roles that discretionary programs have played over the years the following functions appear to be the most successful:

1. A discretionary program can focus national attention in a particular area of education for children with handicaps.

2. A discretionary program can help sustain and nuture developing capacities in special education.

3. A discretionary program can increase the knowledge, both professional and public, about an issue.

4. A discretionary program can assist in prioritizing the work in a particular area of need.

5. A discretionary program can help to support and improve the infrastructure of specific components of the delivery system.

6. A discretionary program can produce limited discrete outcomes, i.e., prepare personnel, products, or services.

Mr. Chairman, may we first congratulate the committee on the overall timeliness and attention to current needs represented by the draft bill you have prepared. You and the other members of the committee and staff have provided numerous opportunities to CEC for input over roughly the last 12 months respecting this reauthorization of the Education of the Handicapped Act. We appreciate the accessibility of both the members and staff. During that time period CEC has communicated, both in writing and verbally, its goals and objectives toward improvement of the EHA. Therefore, we will not repeat our earlier statements, but instead address comments specifically to the subcommittee draft before us.

Definitions

The draft bill would add the categories of "traumatic brain injury" and "autism" to the statutory definition of children with disabilities. While we appreciate the concerns that have led to this proposed inclusion, CEC has expressed its opposition to the addition of new categories in the statute. We are deeply concerned that adding additional categories takes us further down the road in the labelling of children and will require burdensome new data gathering responsibilities. We wish to emphasize that CEC has always supported and will continue to support the delivery of appropriate special education to these children. That is not the issue. We believe that the populations represented by these categorizations are or can be appropriately covered through the existing statutory and regulatory framework.

The draft bill adds to the statutory definition of special education the following: ". . . the provision of transition services, including instruction, rehabilitation counseling, and functional vocational evaluation for transition from school to work or to postsecondary education." CEC has frequently expressed its concern that federal policy assist in the crucial area of transition, and we understand the basis for this proposed inclusion in the definition. Permit us to stress that any addition to the EHA definition of special education places a new legal responsibility upon the states and their school districts. For instance, the "at no cost to parents or guardians" provision is contained in the EHA definition of special education. Thus, since such an inclusion can fairly be characterized as a new mandatory responsibility, we feel that the implications of this proposed inclusion should be exhaustively reviewed before this action is taken. Further, no definition of transition services is offered to accompany this requirement.

Further, we note that "rehabilitation counseling" is included as a component of transition services in this proposed addition to the definition of special education. Immediately after in the draft bill, "rehabilitation counseling" is included as a related service under the EHA. We strongly urge that "rehabilitation counseling" not be included in both definitions, and be limited to a listing among the related services.

Dissemination

The draft bill requires delivery of procedures, findings, and other relevant information from all projects under Section 618 and Parts C through G to the Regional and Federal Resource Centers, the Clearinghouses, the Technical Assistance to Parents Program (TAPP), the National Diffusion Network, the ERIC Clearinghouse on the Handicapped and Gifted, and the Child and Adolescent Service Systems Program (CASSP). We fully support the objective intended, but as the language is currently written, everything produced goes to every entity cited. We perceive a massive and unnecessary movement of paper around the nation. Why should any single document be required to go to all entities? For example, a document addressing the teaching of children with visual impairments need not be transmitted to CASSP. We recommend that language such as "where appropriate" be included.

Panels of Experts

CEC supports the effort in this draft bill to guarantee participation in the expert review panels of a cross section of individuals, including individuals with disabilities, parents of individuals with disabilities, and experts who are members of racial and ethnic minority groups. However, it must be pointed out -- in fairness to the Department -- that having the required numbers and make-up of the panels is often quite difficult. At any one time a considerable number of people may need to be empaneled to review proposals in a number of competitions. None of these individuals, of course, can have any conflict of interest nor can they be submitting proposals themselves. We recommend that attention in the draft bill be given to the make-up required for the overall pool of potential panelists in contrast to the requirements of each particular panel.

American Indian Children Served by the Bureau of Indian Affairs

Under current Part B provisions (Section 611 (f)(1) assistance is provided to the Secretary of the Interior for the "education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior." The draft bill would remove any mention of schools operated by the Bureau of Indian Affairs (BIA). While we are not sure of the intent of this proposed amendment, it would appear to significantly expand BIA's educational responsibilities to reservations where BIA does not presently have schools or support the operation of tribal schools. We would further question the effect of such a change since legislation pertaining to BIA's elementary and secondary school responsibilities is based for the most part on the existence of a federally operated or supported school, and not, entire reservation areas. Thus, the proposed amendment would appear to have little effect given the Department of the Interior's delimited elementary and secondary school responsibilities under current federal policy.

The mandate toward universal preschool opportunities for all children with disabilities includes the BIA (Section 611, (f)(2), and in the course of implementing this requirement there have been instances where services were abruptly curtailed due to the absence of a BIA or tribally supported school. These children and their families are still in need of support, but we do not believe the proposed amendment would redress such incidents or stimulate the provision of services in areas where there is or is not a BIA school presence. During consideration of P.L. 100-297 CEC supported an addition to the funding formula for BIA schools that would provide assistance to support preschool programs for children with disabilities. The Congress elected to conduct a General Accounting Office (GAO) study (forthcoming) to determine the number and location of children with handicaps, 3-4 years of age, eligible for services from BIA, status of existing services, and unmet needs. We believe the GAO report will be extremely useful in developing and implementing a service delivery system for preschool children with disabilities that would involve BIA funding as well as supplemental funding such as Part B of EHA from the Department of Education.

"Goals for Minorities and Underserved Persons" (Sec. 610 (g) of draft bill)

CEC has urged throughout this reauthorization process that a much greater commitment must be realized through these discretionary programs toward improved educational opportunities and services for Black, American Indian, Alaska Native, Asian, Hispanic, Pacific Islander (including their various subgroups) children with handicaps and their families. Many of these children may also be poor, migrants, have a primary language other than English, be recent immigrants with little or no formal schooling, and/or reside in rural or urban areas. Projects focusing on the needs of these infants, toddlers, children, and youth have been isolated and seldom part of a well-designed effort extending over a prolonged period to increase our understanding and ability to serve these children and their families more appropriately.

Underlying this concern is our conviction that the full instructional needs of children and youth with handicaps who also may be members of racial and ethnic minority groups, limited English proficient, or disadvantaged have not been fully met. Correspondingly, we observe (a) a serious shortage of properly trained teachers, and other education, and related services personnel to appropriately serve culturally and linguistically diverse children and youth in need of special education; (b) an underrepresentation of special education and related services personnel, i.e., practitioners, administrators, teacher trainers, and researchers, who are members of racial and ethnic minority groups; (c) a need for new and increased knowledge regarding the identification, evaluation, placement, and provision of services to culturally and linguistically diverse children with disabilities; (d) a need for improved parental and family involvement throughout early intervention and special education processes; (e) a need for increased communication and improved collaboration between professionals and programs serving children with disabilities, children of limited English proficiency, disadvantaged children, migrant children, American Indian and Native Hawaiian children, and other children with special needs; and (f) an underrepresentation of individuals with disabilities.

Mr. Chairman, we applaud the goals contained in the segment of the draft bill titled "Goals for Minorities and Underserved Persons." At the same time we are having problems with the overall construction of this section. Further, we believe that an earmark of one percent of the total funds available under Parts C through G is not necessary to achieve the objectives of this segment, nor do we believe that the creation of such an earmark is advisable as a precedent.

CEC recommends the following requirements in law:

1. that the Secretary of Education in his conduct of the current ongoing program planning process for the implementation of the programs authorized under Section 618 and Parts C through G of the Act assure that persons from racial and ethnic minority groups are adequately involved in the process and that consideration is given throughout the process to the unique needs of infants, toddlers, children and youth who are members of racial and ethnic minority groups, their families, and to professionals of racial and ethnic minority heritage, and that priorities and directions consequent to this process reflect this involvement and consideration.

2. that the Secretary require applicants for all grants, contracts and cooperative agreements under Parts C through G to clearly demonstrate how they will address, unless inappropriate, the needs of infants, toddlers, children and youth with disabilities from racial, ethnic and linguistically diverse backgrounds and the personnel needs in the education of such children.

3. that the Secretary include in the Annual Report to the Congress a special report on the status of implementation of the preceding requirements, including a statement on outcomes achieved.

Comprehensive System of Personnel Development

Further development in statute is definitely required for each state's comprehensive system of personnel development (CSPD) and the draft bill provides the needed statutory blueprint. However, the draft bill includes personnel development in the area of early intervention services. This will lead to confusion since only roughly one third of the lead agencies required under Part H of the EHA are the state education agencies. Further, Part H contains a distinct provision for a comprehensive system of personnel development in EHA, Section 676 (b) (8). We recommend that this issue of differing state agency responsibility either be clearly spelled out, or, preferably, that the matter of CSPD as it relates to early intervention be left for consideration in the forthcoming reauthorization of Part H.

The Regional Resource Centers (Sec. 621)

The purpose of the regional resource centers is to assist SEAs, and through them, LEAs *in identifying and solving* **persistent** problems in providing educational services to children and youth with handicaps, and in identifying and replicating model programs and practices. The RRCs began in 1969 with four centers to develop and apply the best methods of appraisal and educational programming for students with handicaps. With the passage of P.L. 94-142 in 1975, the mission of the RRCs was modified to provide training and technical assistance to state and local educational agencies. The 1983 EHA amendments redirected the focus of center services to require each center to (1) assist in identifying and solving persistent problems in providing quality special education; (2) assist in developing, identifying, and replicating successful programs and practices; and (3) gather and disseminate information.

The current program is designed to include six regional centers and a national technical assistance center which builds on successful performance of previous assignments by the RRC network, while responding to the changes in the program that were made in the 1986 Amendments.

We have been concerned that the intent of Congress, in P.L. 99-457, to have the RRCs serve state needs has been severely constrained by the Administration using their contracting authority to specify the priorities and functions of the RRC. It was exactly for this reason the Congress established a national coordinating technical assistance center that would be Administration directed.

Our reading of this draft bill indicates a desire to achieve compliance with the intent of P.L. 99-457, and we support that effort.

Services for Deaf-Blind Children (Sec. 622)

The purpose of this program is to enhance efforts to provide full educational services to children and youth who are both deaf and blind. When initially authorized in 1968, this program utilized a center approach to serve deaf/blind children because of their relatively small numbers, scattered geographic distribution, and need for highly specialized, extensive services. Under the 1983 EHA amendments, emphasis has been placed on providing support (i.e., technical assistance, training, and information dissemination to assist agencies to meet the needs of the students, including transition to adult life).

The National Coalition on Deaf-Blindness has brought to the Congress a proposal for improving the functioning of this program. We applaud their efforts and support their proposal in the following general areas:

A. Sustain the program as a discrete authority under EHA for children who are deaf and blind.

B. Expand the authority under the law to serve a broader age range of students.

C. Improve the capacity to obtain data and other information about students who are deaf and blind.

D. When needed, permit funds to be utilized for direct services to such students that would otherwise not be required by law.

We understand that the amendments in this draft bill generally conform to the desired objectives of the coalition.

Secondary Education and Transitional Services (Sec. 626)

This program seeks to strengthen and coordinate special education and related services for youth with disabilities currently in school or who recently left school to assist them in the transition to postsecondary education, vocational training, competitive employment (including supported employment), continuing education and adult services.

We appreciate the attention members and staff have given to refining this important discretionary program so that it may provide enhanced federal stimulus in the critical area of transition of youth in special education. We would suggest that a greatly enlarged authorization level will be necessary to effectively meet the objectives of the proposed joint grants to state vocational rehabilitation agencies and state education agencies. We must also raise the issue of the inclusion of transition in the definition of special education -- an immediate requirement -- in relation to the requirements under this section that access to transition for all eligible youth be achieved in five years by the states receiving joint grants. On the one hand we have a requirement that takes effect upon enactment of these amendments; on the other hand we have a five-year phase-in before transition services are required.

Programs for Children and Youth with Serious Emotional Disturbance

The Council for Exceptional Children has for the past several years actively worked as part of the National Mental Health and Special Education Coalition because of our deep concern over the state of services to our nation's children and youth with serious emotional disturbances. It is generally agreed that this area is probably the most problematic in special education and the area that historically has gotten the least national attention and leadership. Part of the reason for this condition has been the lack of a unified community of interest. The Coalition has brought together education and mental health professionals and agencies, parents, and other advocates to build a common agenda.

We support the recommendation of the Coalition that:

> "There are presently no discretionary resources under EHA targeted or available to be targeted at assisting and encouraging the field to resolve the problems relating to serving children and youth with serious emotional disturbances. We believe the magnitude of the problems warrant the initiation of a new and discrete program in order

to establish a systematic initiative which will significantly increase our knowledge base on how to better educate these children."

Therefore, we applaud the inclusion of a new EHA discretionary program to address the needs of children and youth with serious emotional disturbance in this draft bill. We note that you have included a grant program in new Section 627 (b) (1) of the draft bill which was not recommended by the coalition. We support this inclusion but urge a corresponding increase in the authorization to cover this addition.

Personnel Development (Part D)

Part D of EHA, which provides support to institutions of higher education, state and local education agencies, and other institutions and agencies for the purpose of preparing personnel for the education of children with handicaps is the oldest EHA authority (1958) and perhaps the program that over the years has had the most significant impact on advancing and improving services of any of the EHA authorities. The majority of the personnel in the field of special education, classroom teachers, administrators, and higher education faculty were educated in programs supported under Part D.

Thirty-two years ago Congress recognized, as we do today, that the key to effective service for children with handicaps is to develop and maintain an adequate and well prepared cadre of special education personnel, related services, and early intervention personnel. As the Secretary, in the Tenth Annual Report to Congress on Implementation of The Education of the Handicapped Act, states, "Delivery of special education services is contingent upon trained personnel qualified to provide the required services. Implementation of EHA Part B is therefore directly dependent on the availability of personnel qualified in pertinent disciplines for eh delivery of special education . . ." However, in the same report the Secretary states that, "27,474 teachers were needed to fill vacancies and replace uncertified staff" and an additional 13,730 staff other than special education teachers were needed."

We have delivered to this Subcommittee a report entitled, "A Free Appropriate Education: But Who Will Provide It" that was developed in conjunction with other associations on the serious shortage of qualified special education and related services personnel that will be available in the future to meet the needs of students with handicaps. Our projections clearly demonstrate that unless some major intervention occurs, the ability to provide the free, appropriate public education required under this Act will be seriously jeopardized. The report calls for a comprehensive plan of action involving all levels of government, institutions of higher education, and professional associations to recruit, prepare and retain qualified personnel.

Among other recommendations, the report called upon the Congress to increase the authorization of Part D to $150 million and that priority be given to this Part in appropriations considerations. We again today urge the Congress to substantially increase the authorization levels for this critical support program.

With respect to the draft bill, we observe that authority for inservice training of personnel has been included in the basic grant program for personnel development under Section 631. We are strongly opposed to this inclusion. In an era of critical shortages, expanding the use of the very limited federal funds for preservice to include inservice training could seriously impair the capacity to resolve the shortages. We feel that there may be a misconception here respecting what is preservice preparation and what is inservice preparation. Preservice preparation is all training which occurs until a person is fully qualified, regardless of the environment in which the training occurs. It may be thought that inservice must be authorized in this section in order to allow support for training to achieve full certification. But this inclusion is not necessary if that is the desired objective. We also wish to point out that inservice training authorities are contained in other sections of the EHA, specifically in the Section 632 authority for state education agency training and in the setaside of funds for the state education agency under Part B of the EHA.

We are also concerned with the proposed addition of "assistive technology services" to the list of disciplines authorized for personnel preparation under Section 631. "Assistive technology services" do not constitute a professional discipline.

We observe the following proposed provision: "Any person receiving a fellowship under this subsection shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to programs and activities such as those authorized under this Act." Mr. Chairman, we do not quarrel with the essential objective, but with how such a provision would be operationalized. Fellowships received under this program are part of a grant package awarded to a particular institution of higher education. Fellowships are not given in the same manner as, for instance, the federal guaranteed student loan program. Are the postsecondary institutions expected to follow the careers of all their matriculating students and act as collection agencies? We wonder whether they would consider a grant worth having under this authority if they were required to shoulder such a burden. Through what judicial avenue would disputes be resolved? Who would be the plaintiff?

The draft bill authorizes the Secretary to allocate a portion of the personnel preparation funds for grants for interdisciplinary training for special educators and requires that programs that prepare related services personnel include practica in regular and special education and community settings. We have two significant concerns about these provisions. First, personnel preparation programs exist within the overall realities of college and university degree programs. For example, if a special education teacher is being prepared at the undergraduate level it is impossible to provide a program that is "interdisciplinary based" that requires integration with social work, psychology and other selected services that are provided at the graduate school level. Further, requiring related services personnel to have additional practica requires adding to the hours needed for graduation or eliminating other course requirements. Second, we believe these provisions, while laudable in their intent, establish federal intervention into what is traditionally the responsibility of professional accrediting bodies. As the body responsible for the accreditation of special education personnel preparation programs CEC wishes to assure the members of the subcommittee of our continuing efforts to address programmatically the issues you have raised.

We also observe a proposal in the draft bill to earmark 10 percent of the funds under Section 631 in each fiscal year for grants to historically Black colleges and universities, and other institutions of higher education whose minority student enrollment is at least 25 percent.

Mr. Chairman, we wholeheartedly support the objective of increased participation of historically Black institutions under the present training areas, i.e., special educators, related services personnel, leadership personnel, early intervention personnel, preparation of personnel to serve culturally and linguistically diverse children with handicaps, etc., through priority setting and the provision of technical assistance and training. We are concerned, however, that additional steps need to be undertaken to support capacity building at historically Black institutions for the preparation of special education and related services personnel. At the same time, CEC has consistently throughout the years opposed any earmarking within the very limited pool of funds under Part D of the EHA. Moreover, once the precedent of earmarking has been established, there will be no end to further proposals for earmarking, thus gradually reducing the ability to leverage personnel funds to meet current needs.

We would propose instead a special grant program to be set at a fixed amount for each year for the duration of this authority. The Secretary would make grants to or enter into cooperative agreements with historically Black colleges and universities for the purpose of capacity building and improvement of program quality and enrollment in programs preparing students for careers in special education, related services and early intervention. We would further propose that such grants or cooperative agreements would be for three years for $50,000 each year. In establishing criteria for applications the Secretary would assess the commitment of the institution to program improvement, the need for such improvement, and the strategies to be undertaken to achieve improvement. Further, we would propose that the Secretary be allowed to reserve up to $100,000 to provide technical assistance and leadership development to colleges and universities receiving or preparing grants or cooperative agreements under this authority.

Research Part E

Research is the second oldest federal special education authority, coming a few years after the initiation of personnel development programs. The purpose of Part E is to contribute to the advancement of knowledge and practice in special education through the research process. The main objectives are to provide knowledge and understanding; develop and validate effective practices; develop new approaches based on research findings; and contribute to the dissemination and implementation of research findings.

As the issues regarding the education of students with handicaps shift from access to education to the quality of the education provided, it becomes increasingly imperative that there be a continual investment in knowledge production and utilization activities that can assist practitioners in improving the quality of what they provide to children. Such activities in special education are significantly federally impacted. State and local governmental as well as private resources for this purpose are minimal and are becoming even more limited. The existence and quality of this community of interest is directly related to the availability of federal resources to support such activities.

May we simply commend the committee for drafting language for Part E aimed at improving the practice of professionals and others providing special education, related services, and early intervention with emphasis upon the exchange of knowledge through existing networks.

Ombudsman Demonstration

An authority is proposed in the draft bill for establishment of school-based model demonstration programs that provide the services of an ombudsman. We would encourage the committee to provide greater specificity with respect to what sort of problems the ombudsman would be resolving, and what the overall responsibilities of the ombudsman would be. Further, we question why ombudsman would come only from the ranks of social workers, parent advocates, and psychologists.

Technology, Educational Media, and Materials (Part G)

We are very concerned that the draft fill includes a proposal to add "assistive" to the term "technology." This inclusion would seriously constrain the overall scope of this important program.

This authority now operates with a broad authority for the development and utilization of technology across the full spectrum of education, including the teacher, the student, and the educational environment. Moreover, this program also addresses educational media and materials. For instance, very exciting work is being supported in textbook adaptations for exceptional students.

The term "assistive" speaks to enhancing the ability of the individual to perform and of providing access to program for the individual. Though the promotion of assistive technology is an important mission of this federal authority, reduction of this program to "assistive" only would mean a serious setback in support to the wider range of instructional technology and other supported activities, all of which are important and must be continued.

In Closing

Mr. Chairman, this bill speaks to important new directions and to expansion of the federal support mission. All of this, we trust, will benefit exceptional children. But all of this also requires implementation and daily management by the designated staff of the Executive Branch, specifically the staff of OSERS/OSEP. At the beginning of this testimony we cited the existing 105 subprograms currently requiring management. There are not enough staff to manage even these current subprograms. In fact, the staff number at OSEP has dropped notably through the 1980s, while responsibilities have increased. We urge this panel and this Congress to support critically-needed increases in staff and other support capacity within the responsible agency.

As always, Mr. Chairman, the Council stands ready as an organization to provide every professional resource which it can command to assist you in the completion of this reauthorization.

Mr. **Owens**. Ms. Norena Hale.

Ms. **Hale**. Thank you, Mr. Chairman.

My name is Norena Hale and I am President of NASDSE, the National Association of State Directors of Special Education, and I am also manager of the unique Learner Needs Section in the Minnesota Department of Education.

NASDSE is a professional association representing State education agency directors responsible for implementing EHA Part B. Approximately one-third of us are also representing lead agencies for implementing Part H, the Early Intervention Program.

I appreciate the opportunity to address you today and my comments here are a synopsis of the prepared statement that you have before you.

Since Public Law 94-142 was passed 15 years ago, we have experienced continued progress in meeting the needs of children and youth with disabilities. We do, however, share your concern regarding school performance and post-school outcomes.

Our dropout rates are on average double that of children without disabilities. And for students with serious emotional disturbances the dropout rate is approximately 40 percent.

While issues of equity and access to services continue to require serious attention, it is equally evident that efforts to achieve excellence are imperative. NASDSE believes that an effective emphasis on assuring access and achieving excellence must be the focus of State formula grants and discretionary programs.

I've organized my verbal comments into three areas, or themes.

Number one: Achieving improvements and programs and practices. We appreciate the increased emphasis on research and evaluation efforts needed to improve professional practice. We agree with earlier comments that of particular importance are: the requirement that project findings be prepared in such a way that others can benefit from the results; that the information is being used to improve the teaching and learning process at the child and classroom level; and the need to strengthen existing dissemination networks.

These changes represent significant improvements in the Act. We also believe that additional improvements can be made, however.

For the past six years, States have been involved in cooperative agreements with the Office of Special Education Programs which have provided a focus for program improvements within States. However, States have not had the resources or time under these 18-month awards to effectively package and disseminate the project findings, or to develop the expert support needed to implement them.

NASDSE urges that language be included to support activities designed to implement the findings and achieve statewide program improvements.

As referred to in introductory comments, we agree that each year it costs State and local governments more to education children and youth who have disabilities because the service costs are rising at a fast pace. The dollar increases we receive are being used to continue basic educational programs rather than being invested in program improvement activities needed to achieve the excellence and quality we all want for our children and youth with disabilities.

We are pleased that you have considered allocating one percent of the Part B appropriations for program improvement activities. This investment will help States participate more effectively in the educational reform activities and will serve as a means of strengthening the practices necessary for improving educational outcomes.

My focus number two is on extending the concept of free appropriate public education. The scope of our school programs is broadening and there are emerging populations for particularly supportive of your efforts to expand for emotional behavior disorders.

I would like to pause here.

The scope of our school programs are broadening—not only are we looking at new categories of students needing services but we're also looking at expansion of the ages of the children and youth that we provide services to.

Although NASDSE is not generally in favor of categorical discretionary programs, there is little question but what we need to address the needs of children and youth with serious emotional disturbances.

One of the existing programs we're very pleased that you've decided to strengthen is the program for transition services. Cooperative projects between State education agencies and State vocational services will provide opportunities for us to experiment with alternative designs for achieving collaboration across human services providers.

However, we're concerned that this subcommittee is considering expanding the definition of special education to include an undefined array of services. We see this as a potentially significant expansion of responsibility for States and school districts. Because the bill does not define what would constitute the transition services to be provided by schools, a number of questions arise.

Does it mean, for example, that schools will now be required to provide transition services after the student completes the requirements for a high school diploma?

Would we be asking schools to provide services not traditionally seen as educational services such as rehabilitation and job placement services which are now provided by other agencies?

We, too, urge careful review regarding how the proposed redefinition of special education is intended to translate into the responsibilities and obligations of special education within the States and within our schools.

After very careful consideration, we are unable to support the proposed redefinition of who is eligible to receive special education and related services. It needs to be noted, as was mentioned earlier, that under current regulations children with traumatic brain injuries and attention deficit disorders who—and this is key—who experience adverse effects on their educational performance or who demonstrate significant discrepancies between their ability and performance are already eligible for services under the law. And if there's a problem in implementing this law, then we believe it's a compliance issue and should be addressed through those means.

NASDSE believes that key among the roles that Congress plays is that of legislative leadership. We believe that it is your role to define the problems that you see to set as goals a resolution of these problems to challenge us to challenge the field to meet these goals and then to provide resources to stimulate the design of effective solutions.

This bill as prepared has been particularly successful in a number of very important areas, and I mentioned transition, I mentioned in providing service for children who are seriously emotionally disturbed.

However, we observe a few areas that approaches or solutions to problems have been proscribed that may inadvertently fail to capitalize on the human and institutional resources at our disposal.

We believe one of these areas and one of critical importance relates to individuals of diverse ethnic, racial and linguistic backgrounds.

We do believe a national effort needs to be made to increase the participation of minority individuals in all aspects of service delivery to children and youth with disabilities.

And, further, to assure that our programs meet the needs of minority students.

We are concerned that this bill's emphasis on giving preference to minority applicants in the awarding of competitive grants will not stimulate the national response that we believe is required to build our capacity to meet the needs of students with disabilities all across the Nation.

In closing, Mr. Chairman, we urge the subcommittee to address the lack of authorization levels in the proposal so that we and others can respond and comment on the proposed changes in the context of the authorization levels.

We also urge the subcommittee to address the need for higher appropriations for implementing the Act. Providing appropriate educational services to children and youth with disabilities is a goal that we all share at the Federal, the State, and the local levels. If we are to develop quality services and achieve excellence for our students, it behooves us to find the resources needed to implement the Act as intended.

Mr. Chairman, this concludes my remarks and I thank you for the opportunity to address the committee.

And as you finalize your plans for reauthorization, the NASDSE membership and staff stand ready to assist you in that process.

Thank you.

[The prepared statement of Norena Hale follows:]

Statement of

The National Association of State Directors
of Special Education, Inc

to

The Subcommittee on Select Education
Committee on Education and Labor
U.S. House of Representatives

with respect to

Reauthorization of the Education of the Handicapped Act

February 20, 1990

submitted by:

Norena Hale, NASDSE President
Director of Special Education
Minnesota Department of Education

INTRODUCTION

Mr. Chairman and members of the Subcommittee, the National Association of State Directors of Special Education (NASDSE) appreciates the opportunity to address you today, and to present this statement pertaining to the reauthorization of the discretionary programs authorized under the Education of the Handicapped Act (EHA). NASDSE is a professional association representing State education agency administrators of special education. In addition to their responsibilities at the State level for the administration of the EHA Part B program, approximately one-third of these State directors also represent the responsible lead agency for the Part H early intervention program.

Since well before the enactment of Part B in 1975, the discretionary programs under EHA have played a critical and key role in building the capacity of this nation to provide special education services to children with disabilities. Over time, Congress has periodically reviewed the structure and direction of the programs, and has made the adjustments necessary to assure that these programs remain responsive to the critical and emerging needs for improvements in the preparation of personnel, the production of knowledge, and the development of service systems at the State and local levels. The present reauthorization which you and your staff have been so diligently engaged in over recent months represents a new opportunity to examine where we have come and what directions should be taken in order to improve the opportunities and educational outcomes for children participating in our programs now and in future years.

We appreciate the considerable time, energy and thoughtfulness that the members and staff of this Subcommittee have devoted to the reauthorization of the discretionary programs over the last year. You have structured a variety of opportunities to hear the concerns and recommendations pertaining to these programs from a wide range of persons interested and involved in the education of children with disabilities. The importance you place on this process has been equally evident in your efforts to sustain a dialogue with the field in examining alternative approaches for achieving desired improvements.

The comments presented here have been preceded by written communications and discussions with the Subcommittee regarding the discretionary programs. Today, we focus our comments primarily on the major proposals contained in the draft bill prepared by the Subcommittee. We look forward to a continuing dialogue with the Subcommittee regarding this reauthorization and will be happy to share additional perspectives on these or other proposals that emerge as a result of these hearings.

Sec. 602(a)(1) - DEFINITION OF HANDICAPPED CHILDREN

The draft bill proposes changes in certain definitions found in Sec. 602 of the Act. Two of the proposed changes would amend the definition of children with handicaps to include children with autism and children with traumatic brain injuries as separate handicapping conditions. A third proposal would revise the statutory definition of "specific learning disabilities" to include children diagnosed as having an attention deficit disorder.

Children with any of these three conditions who, as the result of their condition are handicapped and require special education and related services are currently eligible to be served under Part B of EHA. Children with autism are already included in EHA regulations (Sec. 300.5) under the category "other health impaired." Traumatic brain injury (TBI) is a medical condition which may result in a handicap and the need for special education and related services. However, not all children with TBI need such services. Further, the proposals to add autism and brain injury as categories of disability, coupled with the requirements of Sec. 618 for State reporting of data on children served by disability category, can be expected to increase significantly State and local data burden, as well as data collection and reporting costs.

NASDSE is opposed to adding new categories of handicapping condition to the law. We recommend instead of creating new categories of disability for children with TBI that the regulatory definition of "other health impaired" be expanded for the purpose of assuring that TBI children who experience adverse affects on their educational performance or who have a severe discrepancy between ability and achievement and who require special education and related services are included, as is the case now for children with the condition of autism.

Regarding the proposal to include in the statutory definition of "specific learning disabilities" children who have an attention deficit disorder (ADD), our review of current medical, psychiatric and educational literature about ADD reveals a lack of consensus among professionals regarding the etiology of ADD and appropriate educational treatments/interventions for children with this disorder. Some, though not all, children diagnosed as having ADD experience problems in school. Some of these problems result in an adverse affect on educational performance requiring specialized interventions, while others can be accommodated with reasonable modifications in the regular education program (e.g., use of behavior management strategies). Children with ADD who experience serious problems may or may not have a specific learning disability. On this point the literature appears clear. Those children who experience a severe discrepancy between ability and achievement and who require special education and related services would already be eligible for such services under the SLD definition without a change in the statutory language. Those children with ADD who meet the definition of other categories of disability and whose disability adversely affects their educational performance would likewise qualify. **We believe current statutory definitions are adequate, but that report language might be useful in clarifying that when a child with ADD is determined to be handicapped and in need of special education under any existing category of handicap that such child is eligible under Part B of the Act.**

Sec. 602(a)(16) and (17) - DEFINITIONS OF SPECIAL EDUCATION AND RELATED SERVICES

The bill proposes to expand the definition of both special education and related services. The provision of transition services would be added to the definition of special education services to be provided under Part B. We expect of our schools that children be provided services appropriate to their educational needs. Where their educational needs include postschool considerations, we further expect such needs will be addressed. Increasingly, States are putting in place requirements that transition planning occur between schools and other relevant agencies, providing educational services intended to enable and effective and smooth transition, and working in cooperation with other agencies and the private sector to develop and improve access to services to help students in the transition process. The proposed expansion of the definition of special education will place new obligations on States and their educational agencies. **In order to assess the potential implications of including "the provision of transition services" in the statutory definition of special education we believe, first, that a full examination of the proposed change is warranted and, second, that a definition of the term "transition services" must be carefully considered.**

The bill proposes further to include in the statutory definition of special education "rehabilitation counseling" services. The same change, perhaps inadvertently, is proposed for inclusion in the definition of related services. Counseling services are not now included in the statutory or regulatory definition of special education; instead they are considered to be a related service. **We oppose adding rehabilitation counseling to the instructional services currently defined as special education.**

Rehabilitation counseling is an essential service for some students with disabilities. Assuming for the moment it is defined as a related service, we are concerned that confusion regarding the role and responsibility of other agencies/programs currently providing such services will result. Despite Congressional expressions of intent in the past, our experience has too often been that resources previously available for services for children with disabilities from non-education sources are redirected elsewhere when services traditionally provided by such agencies/programs are specifically required in the Act. **If rehabilitation counseling is specifically included in the definition of related services, we urge the committee to include clarifying language in its report regarding the expected role and responsibility of other agencies in the provision of such services.**

IMPROVING SERVICES FOR CHILDREN WITH DISABILITIES FROM DIVERSE RACIAL, ETHNIC AND LINGUISTIC BACKGROUNDS

NASDSE is in strong agreement with the Subcommittee over the need for special measures at this time to assure the availability of appropriate services for children with disabilities who represent diverse racial, ethnic and linguistic backgrounds. Of particular concern is the shortage of qualified minorities among educators and related services personnel at all levels of the education system. In addition is the need to assure that personnel are appropriately prepared to address the needs of children with disabilities from diverse cultural and linguistic groups.

Public school enrollments of minority children have increased dramatically in recent years and are expected to continue over the coming decades. Special sensitivity to, knowledge about, and consideration for the needs of minority children being served today and in the future must be a priority so that we can assure their access to and participation in appropriate educational opportunities.

We believe that the special needs of minority children with disabilities as well as the need for appropriately trained professionals in the schools and field generally require serious and on-going attention by the private and public sectors at the Federal, State and local levels. The goals outlined by the committee in its bill require serious attention and commitment. We believe that Congress can play a critical role by directing that certain measures be taken which hold promise of achieving these goals. We support several of the measures already contained in the bill and offer comments on these and others below.

We believe that proposed amendments to the CSPD section of the State Plan requiring States each year to describe the measures to be taken to increase the supply of personnel from racial and ethnic minority groups will result in much needed efforts among higher education, SEAs and local school districts to cooperatively plan and implement strategies. **We also favor provisions requiring institutions of higher education receiving personnel preparation grants to describe how, where applicable, the needs of minority children will be addressed in their training activities, and, where appropriate, to include activities designed to increase the participation of minority students under their training projects.**

Further, as part of its on-going planning process for the discretionary programs authorized under Parts C through G of the Act, the Office of Special Education Programs should assure that the needs of minority students with disabilities, families and professionals are addressed directly in the establishment of program goals, objectives and priorities. In addition, this program planning process should include the involvement of persons from diverse racial, ethnic and linguistic backgrounds.

Similar considerations should also be required of applicants for support under the discretionary programs. **The Secretary should be directed to require that applicants describe how they will address the needs of minority children and the personnel serving them, except where such consideration is not relevant.**

Sec. 611(f) - REQUIREMENTS RELATED TO CHILDREN ON INDIAN RESERVATIONS

Assistance is provided under this section for the education of children with disabilities living on reservations who are enrolled in elementary and secondary schools operated by the Department of the Interior. The bill proposes to eliminate reference to the Department of Interior schools.

At present, some children living on reservations are educated by local educational agencies or in tribal schools rather than by Department of Interior schools. The purpose and potential impact of the proposed change in this section of the law is not clear.

The change would appear to expand significantly Department of Interior obligations by including more children (those attending LEA and tribal schools) under the current allocation formula. In addition, we anticipate that confusion will arise over the responsibilities associated with the education of children not now served by Department of Interior schools. **We ask for further clarification of the problem this amendment is intended to address so that the effect of the proposed change can be assessed. As proposed, we would not be in favor of expanding Department of Interior obligations to include all children living on reservations.**

Sec. 613(a)(3) - COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

We view positively the majority of proposed changes in the CSPD component of the State plan. However, we **strongly recommend that the requirements of the section be limited to personnel development in the areas of special education and related services, and not in the area of early intervention.**

There is at present already a requirement under the Part H early intervention program (Sec. 676(b)(8) for a comprehensive system of personnel development. The State Part H lead agencies (some but not all of whom are SEAs) are designated as responsible for early intervention CSPD. We believe that confusion will be inevitable for Part H lead agencies and SEAs alike if Sec. 613(a)(13) requires personnel planning for early intervention to be carried out by SEAs, when Part H lead agencies are currently responsible under the law. **We suggest that issues related to early intervention CSPD be considered during reauthorization of the Part H program.**

IMPROVING KNOWLEDGE PRODUCTION, DISSEMINATION AND USE

The bill proposes a number of measures intended to (a) focus information acquisition conducted under research, evaluation and demonstration program on efforts to improve professional practice and program administration and management, (b) improve the nature and extent of access to such information so that it has as much impact as possible throughout the service delivery system, and (c) increase the utility of existing and emerging knowledge about serving children with disabilities. The measures proposed are found in several sections of the bill, addressed below.

General Provisions

We support the proposed requirement that the Secretary shall, where appropriate, require projects supported under Section 618 and Parts C-G of EHA to describe their procedures and findings in forms appropriate for use by networks and clearinghouses that serve in an information exchange capacity. This should contribute to on-going efforts at OSEP to assure that user needs for information are considered in the development of reports on projects of national significance, and further that the results of such projects are more readily accessible to potential users. We further believe that evaluations of the discretionary programs can contribute to the current program planning process that OSEP operates.

Section 617 - Administration

Testimony before the House last year from numerous witnesses as well as discussions with our members and with other national associations indicate that professionals, parents and others have a need for information that can be used in designing and implementing effective services for children of all ages with disabilities. Pressing needs were expressed (a) for information that integrates emerging knowledge about what works and under what conditions at the child, professional and program level with our existing knowledge base, and (b) for access to such information and in the forms necessary to facilitate its consideration and use.

A major source of information in special education and early intervention are projects supported at least in part by the EHA discretionary grant programs. The bill proposes the establishment of a common computerized information management system (Sec. 617(e)(1)) that would make program information accessible to a wide variety of users inside as well as outside the Federal government. Such a system could be an effective mechanism for maintaining and making available descriptive information about projects supported under OSERS sponsorship; however, we believe such a system would be most useful as a management tool within OSERS and to those wanting limited information about supported projects. Given the nature of the priority needs for information to improve services for children with disabilities, we believe a system such as that proposed would be of limited benefit to the field. In any given year, OSERS is supporting in excess of 2000 individual grants, contracts and cooperative agreements.

If the system is intended to include information about each project funded by OSERS, only basic descriptive information (e.g., project abstract, type, duration, funding level and intended beneficiaries) can be expected to be captured. If the system is intended to advance the ability of potential users either within or outside the Federal government to access information from Federal as well as other investments for the purpose of improving services for children, the type of analysis, organization, synthesis and interpretation necessary for this purpose cannot be accomplished effectively or efficiently through a single computer system. Instead, data bases structured purposefully to address user needs for information could be developed.

Amendments proposed elsewhere in this bill (e.g., research, general provisions, evaluation, etc.) would already dramatically improve the information available (as well as accessibility to that information) for improving services to children with disabilities. We believe the information needs of OSERS managers and those of individuals, agencies and organizations in the field are not the same and cannot be addressed effectively by a single system.

One further concern regarding a common computerized management information system as proposed involves payment for such a system. The proposal is directed not just at OSEP but to all three agency components of OSERS. The House bill does not indicate what the cost of such a system might be (presumably the feasibility study would provide such an estimate), whether it would be cooperatively financed by all three administrative units, nor whether funds would be appropriated for such a system or be allocated from appropriations for other program authorities (e.g., Parts C-G, S&E, etc.). OSEP is already understaffed and in need of additional personnel, especially to carry out its monitoring responsibilities. **Given what we believe would be the considerable cost as well as our uncertainty over the nature of information that would result from such a system, we do not favor the proposal.**

Sec. 618 - Evaluation

We appreciate the Subcommittee's proposals to provide the program authority needed to improve the nature and quality of information available on progress nationally in implementing EHA and on issues related to the improvement of program management, administration, delivery and effectiveness. We have asked the Subcommittee to consider allocating one percent of the Part B appropriations for these program improvement activities and we are pleased to observe that you have done so in this bill. This investment in program improvement will help States participate more effectively in educational reform activities for children with disabilities, and will serve as a means of strengthening programs and practices necessary for improving educational outcomes for these children. Our comments on the programmatic measures you propose as well as ideas for the Subcommittee to consider that we believe would result in further improvements are described below.

Sec. 618(b) - Data on Children Served. Including Part H lead agencies in requirements for data reporting is a needed clarification of agency responsibility. Revisions to the ages of children on whom exiting data is required (age 14 an above) also clarifies Subcommittee intent and would make the law and current administrative practice at OSEP consistent. A further improvement would result from the proposed deletion of the requirement for data on the anticipated services needed by students one year after they exit special education. While we believe there is a need for information about the services students with disabilities require following their exit from school, the collection and reporting of reliable data on a head count basis has not proven feasible. The Department is currently studying alternative means for acquiring such information.

We understand the Subcommittee is concerned about reports of children with disabilities below the age of 14 exiting the educational system. We believe this concern might be more effectively and efficiently addressed through a special study, possibly using exiting data that is already maintained by some States on children of all ages, rather than through a State data reporting requirement. For most States, new data collection procedures would have to be developed at great cost at both the State and local levels in order to obtain information about the exiting behaviors of children from age three. Data on children exiting the early intervention system from birth would have to be primarily the lead agency responsibility, but equally difficult and burdensome given the number of educational agencies and other service providers involved with these children. **We question whether the problem of children exiting the educational system prior to age 14 is of sufficient magnitude nationally to warrant data collection and reporting on even a sample of children in each State. We encourage consideration, instead, of a special study to first identify the nature and extent of the problem the data requirement would be intended to report on.**

The House bill would require States to report the number of children leaving preschool special education programs under Part B who enter regular education programs at the first grade. Because all States have not established individual pupil record data systems that permit year-to-year tracking of students with disabilities and students without disabilities, this requirement would result in considerable burden and cost to educational agencies at both the State and local levels. In addition, across States there is variation as to whether children exiting preschool programs enter regular education in kindergarten or first grade programs. **Depending on the purpose and intent of this proposed data reporting requirement, we believe a special study which might, in part, utilize data from those States who maintain this type of information should be considered as an alternative.**

Sec. 618(c) - Implementation Inquiries. The proposed amendments to Sec. 618(c) would authorize much needed inquiry designed to result in information that can be used by administrators, direct service providers, parents and others for improving the management, administration, delivery and effectiveness of programs serving children with disabilities. This authority would also complement that of the research program (Sec. 641) which would focus on the instruction and learning process, and together improve the nature and quality of information available about serving children with disabilities.

Sec. 618(e) - Special Studies. The House bill directs the Secretary to conduct special studies to assess progress in the implementation of the Act and to assess the impact and effectiveness of efforts to serve infants, toddlers, children and youth with disabilities. The bill further gives the Secretary discretion in determining what specific studies should be conducted, but also suggests several study topics. **Of the studies suggested, NASDSE believes it is imperative, not optional, that the national longitudinal study of youth with disabilities be completed. This study represents a major investment of Federal resources over the last several years that is beginning to produce highly useful information about the experiences of students while in school as well as after school and the relationship between these experiences.**

Because the types of studies we anticipate will be conducted under this authority represent relatively long-term investigations, priorities would not be expected to change annually. **We recommend that the Subcommittee reconsider requiring the Secretary to publish program priorities on an annual basis and, instead, require a two or three year cycle of priority setting.**

Section 618(d) - State Agency Evaluation Studies. No significant changes have been proposed for the program supporting cooperative agreements between OSEP and State agencies to evaluate the impact and effectiveness of programs provided under the Act. Since its enactment as part of the 1983 amendments to EHA, this program has supported relatively small-scale, 18-month investigations by State agencies into issues related to the results and effect of programs serving children with disabilities. A modest investment of approximately $750,000 a year by OSEP combined with the 40 percent match required of States has resulted in significant changes in policies as well as the identification of areas of service delivery that require improvement and direction for achieving such improvements.

Cooperative agreements provided under this program typically emanate from State and Federal concerns regarding the appropriateness and effectiveness of policies and other strategies for meeting student needs or to determine specifically why an observed condition exists. The ultimate purpose of these evaluation activities is to identify how services can be improved. For example, States have used these projects to examine the reasons for variation across districts in the use of out-of-community placements for SED students; to determine the effectiveness of pre-referral services and instructional options in meeting students needs; and to evaluate the impact and effect of changes in State graduation requirements on the educational opportunities available to students with disabilities.

The relatively short duration of these projects and the limited resources going into any one of the evaluation efforts have proven effective in providing direction for system improvements. Further, in several States, study results have provided sufficient evidence on which to secure policy improvements.

However, this program currently lacks the authority to support further efforts by States to implement statewide the needed improvements identified in their evaluation studies. The implementation of systemwide improvements requires more than a change in policy at the State level. It most often requires the development of appropriate leadership expertise, the preparation and dissemination of information throughout the system, opportunities and resources to involve agencies and organizations at the State and local level in planning for how change will be implemented and who will be responsible, and training of personnel throughout the system.

We urge the Subcommittee to revise the Sec. 618(d) authority to permit the program to support, in addition to studies to assess the impact and effectiveness of programs assisted under the Act, activities that would enable States to plan for and implement the changes identified through these evaluation studies as necessary for improving programs for children with disabilities.

Sec. 641 - Research

The House proposal represents what we consider to be a major and important targeting of the research program on improving the instruction and learning of children with disabilities. We fully support the amendments contained in Sec. 641(a).

We have some concern regarding the proposal for a program to support the establishment of school-based model demonstration programs that provide the services of ombudsmen. First, we believe that "resolving problems which are barriers to appropriate educational, related services or other services" at the school level can be accomplished through a variety of means, and that such means must be tailored to and appropriate for addressing the source and nature of the identified problem. For some problems, better role definition among service providers or agencies might be the solution; for others, parent advocacy or training might be most appropriate; for still others, a third party facilitator such as an ombudsman or mediator might be recommended. We lack a clear understanding of the specific problems this program is intended to resolve, leaving a question regarding the appropriateness of concentrating resources in a single strategy solution. Further, we question the reason for limiting the role of ombudsman to social workers, parent advocates and psychologists.

We ask the Subcommittee to consider as an alternative to the proposed demonstration program, research that would identify the sources and nature of problems that lead to barriers in the provision of services, and then examine ways in which such problems can most effectively be resolved. Future investments in demonstrations of alternative strategies could then be made for those that appear to be most promising.

TECHNICAL ASSISTANCE

The House bill proposes significant changes in two systems providing technical assistance to State education agencies and through them to local service providers and others.

Sec. 621 - Regional Resource and Federal Centers Program. The first of these programs, the Regional Resource and Federal Centers Program, continues to provide much needed external support to the States for improving the delivery and quality of services for children and youth with disabilities. With their regional and national perspectives and access to information about successful practices in the education of children with disabilities nationwide, the RRCs bring to States valuable resources for identifying and resolving issues that persist as well as those that are emerging. We believe that the House proposal to require RRC services be targeted on State identified needs will enable RRCs to better focus their technical assistance services on the most critical issues facing States in the education and delivery of early intervention services to children with disabilities.

We recommend removal of the proposed amendment to require that "representatives of disability advocates" be included in the development of guidelines and criteria for RRC and FRRC operations (Sec. 621(f)). We believe that participants in this process should include representatives of OSEP and SEAs in consultation with, as appropriate, representatives of the RRC directors. The SEA participants must necessarily, in representing State needs for RRC services, bring to this process perspectives within the State representing parents and their advocates, professionals, school districts, and other agencies involved in and responsible for services to children with disabilities. How the RRCs will operate in providing services to SEAs (and through them to LEAs and to agencies providing early intervention services, as required by EHA) to meet these needs should be a determination of the funding agent in cooperation with the agencies receiving RRC services. **We recommend limiting participation in the process of determining how RRCs and FRRCs will operate to OSEP, SEAs and, as appropriate, RRCs.**

Sec. 623(b) - National Early Childhood Technical Assistance System. The 1986 Amendments to the Education of the Handicapped Act (PL 99-457) authorized a major new initiative aimed at increasing access to early intervention services for infants and toddlers with disabilities and their families. These amendments also strengthened the incentive for States to develop preschool programs for children from age 3 through age 5, with the goal of serving all such children no later than 1991. States are now just past the mid-point in the implementation of these two programs.

As you already know and will be hearing more about later this year when you begin the process of reauthorizing the Part H program, all States have chosen to participate in the infant and toddler program. We believe this participation reflects the interest and commitment of state agencies and local service providers to put in place a network of services that in future years will have an unprecedented positive impact on the lives of families with disabled children.

The development and implementation of these statewide comprehensive systems of services is proving to be the greatest challenge faced to date in tailoring existing services and creating new services for children with disabilities. Similarly, under the preschool grant program States and communities are working with diligence to assure by 1991 that our schools and other providers of early childhood services are prepared with the policies, procedures, fiscal and human resources, and models of service delivery necessary to provide special education and related services to all children ages 3-5 who need them.

The national early childhood technical assistance system that Congress authorized in 1986 is providing important and much needed help to States at they move to implement the Part H and preschool programs over this five year period. The grantee is working with each State to identify technical assistance needs, and is responding in diverse ways to provide individualized and highly specialized technical assistance to each State, as needed. Among the services being provided is assistance to help States develop policy alternatives to meet unique state situations, to formulate strategies to achieve the interagency collaboration needed to meet the needs of young children, and to examine approaches to finance this massive effort. The 1986 amendments directed this technical assistance system, now known as NEC*TAS, to provide help to projects funded under the Sec. 623 early education program (HCEEP) and to State agencies in expanding and improving services provided to children with handicaps.

The House bill proposes to expand the target audiences for NEC*TAS services to include parents, advocates, and direct service personnel at the local level. The bill would further require that NEC*TAS dissemination activities be designed to ensure impact and benefits at the community level. We recognize that the establishment in every State of comprehensive early intervention services and of mandatory preschool programs is creating needs among all persons involved in the lives and delivery of services to young children, at all levels of the service system. However, without the appropriation of massive new resources by Congress, we fear that expanding the clients of the national technical assistance system to include parents, advocates and local service providers will divert critically needed assistance away from current and much needed efforts to put soundly in place the service infrastructures, policies, and financing systems States are working so hard on.

We believe that Congress recognized in 1986 that States would need specialized and on-going technical assistance during the five year period of system design and implementation. **Now, at the mid-point of this process, is not the time to expand the responsibilities of this technical assistance system to include new target audiences for direct assistance. Instead, we recommend that information produced by NEC*TAS, as well as by other OSEP funded projects, be delivered, as appropriate, to other networks and clearinghouses that have been explicitly charged by Congress with the responsibility to disseminate information to parents, advocates and the general public such as the parent information centers and NICHCY. This type of two-tiered dissemination is already proposed in Sec. 610 of this bill. This strategy of dissemination would avoid duplication of efforts and enhance the coordination of multiple sources of technical assistance information.**

Sec. 622 - SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH
Sec. 624 - PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN

The majority of the membership of NASDSE has expressed support for most of the proposed changes contained in the Subcommittee bill. We believe concerns which represent the divergence in support merit brief explanation.

There is concern among State administrators of special education over the separation of program authorities based on handicapping condition. Nowhere in the discretionary programs is this issue clearer than in these two programs (Sec. 622 and Sec. 624). For several years funds appropriated for these programs separately have gone to support statewide systems change grants. Projects funded under the system change grant program are being used to improve the quality of services for children who are severely handicapped and deaf-blind, and to change the delivery of services from segregated to integrated environments. Both the Sec. 622 and 624 authorities currently permit the use of funds for system change projects to address the needs of children who are deaf-blind as well as children who are severely disabled. A proposed change in the Subcommittee bill for Sec. 622 would restrict the use of funds to only those projects concerned with children who are deaf and blind.

While the populations targeted under each of these two programs are not entirely the same, there is overlap regarding deaf-blind children who are severely disabled. Many of the program goals and strategies for the populations covered by these programs are the same. A major concern of administrators attempting to maximize Federal support for fostering system improvements is the inefficiency of categorical funding streams and duplicative efforts (such as separate projects) in those cases when comprehensive and coordinated approaches are called for. While the majority of our membership is supportive of many of the changes proposed in these programs, there are some (most notably in States which are successfully and enthusiastically implementing system change grants) whose experience leads them to prefer a more functional approach in Federal discretionary support.

The proposed change in Sec. 622(f) would effectively eliminate support already being provided to several States for their systems change grants, by limiting support to projects that focus on children with deafness and blindness rather than permitting support for projects that are also including children who are severely disabled. The success to date of these projects needs to be recognized, either by continuing to permit Sec. 622 funds to support such efforts, or by increasing the appropriation for Sec. 624 to permit continuation and, hopefully, expansion of these system change efforts.

Sec. 622(a)(3) would add to the program a definition of children who are deaf-blind. The proposed definition is different from the regulatory definition of the deaf-blind category under Part B. **Since the Sec. 622 authority provides for direct services to children, we believe the different definitions of the population to be served may result in confusion in the States. Clarification of Subcommittee intent with regard to the status of the regulatory definition would be helpful.**

The additional data reporting requirements for projects funded under the program for deaf-blind children and youth go well beyond the requirements for data on children served under Part B. **Because of the burden of these additional requirements and our uncertainty over how data on the sex of students served and on student outcomes will be used, we do not favor increasing the types of data required of project.**

Sec. 626 - SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH

The House bill proposes several changes in this program that we believe will strengthen efforts to meet the transition needs of students with disabilities as they move from school to adult life.

In addition to the proposed program of demonstrations to establish methods of providing assistive technology devices and services to secondary school students in transition, we believe that joint projects between State vocational rehabilitation agencies and State education agencies to improve transition services statewide will contribute substantially to the success of young persons with disabilities leaving school. The support provided by this latter program will enable States to concentrate resources on cooperative efforts within and beyond the public sector that will move us more rapidly towards making effective transition services accessible to all students with disabilities.

We recommend that the subcommittee include a substantial increase in the authorization levels for this section of the law in order to achieve the program objectives.

As a point of clarification, there appears to be conflict between two proposed amendments included in the draft bill that affect the proposed program of joint education and rehabilitation projects. The proposal to include in the definition of special education (Sec. 602(a)(16)) the provision of transition services would take effect on October 1, 1990 or the date of the enactment of the amendments, whichever is later. However, States receiving grants under the program of cooperative projects between education and vocational rehabilitation agencies would be required to provide within five years access to transition services for all eligible youth. If under the first proposal transition services are required, then States receiving grants under Sec. 626(i) would be expected to have made such services available without such grants.

Sec. 627 - PROGRAMS FOR CHILDREN AND YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE

The National Association of State Directors of Special Education does not generally favor the authorization of new discretionary programs that focus on categories of handicapping condition. Our preference is that discretionary programs be structured according to educational needs (e.g., early childhood education; transition) or to functions (e.g., research, training, etc.), thus permitting programs to support projects in response to emerging priorities at the national, state or local levels. Categorical discretionary funding sometimes makes difficult the efforts of the field to utilize Federal resources in addressing problems common across disability categories and, thus, maximize the impact of these funds.

In this particular situation, however, we support the establishment of a new program focused specifically on the needs of students with serious emotional disturbance. These students present to the educational system one of its greatest challenges in providing a free appropriate education, in part because their needs often require non-educational interventions which go beyond the services traditionally provided by schools. Effective responses to the needs of children with emotional disturbance requires creative interagency initiatives that go beyond education, as well as the preparation of personnel with the appropriate skills, knowledge and competencies.

We, therefore, support the proposed SED authority, and encourage the subcommittee to authorize funding at a level adequate to support proposed activities.

Sec. 661 -TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR HANDICAPPED INDIVIDUALS

We support the proposed deletion of the term "new" as it refers to technology in this section of the Act, thus permitting projects funded under this program to utilize new as well as existing technologies to bear on the educational needs of children with handicaps. However, we are concerned about other proposed changes that we believe will severely limit the scope of this program.

The projects supported under this program for well over a decade have had a dual focus of increasing access to educational services for children with disabilities and developing instructional tools that serve as a bridge between the processes of teaching and learning. In the latter case, this program has supported the development and adaptation of textbooks, workbooks and computer software to improve the quality of the instruction provided to children with disabilities. For example, among projects supported under this program have been activities that bring together the specialized knowledge of cognitive psychologists and educators to develop software that can be used in teaching critical thinking and problem solving skills on an individualized basis to students with disabilities in such subjects as mathematics.

As size and complexity of the school curriculum increases, the challenges for the student with disabilities participating in the regular school curriculum increase, sometimes dramatically. The program as currently authorized is supporting projects to develop instructional alternatives that permit the disabled youngster to acquire the knowledge, skills and competencies demanded in the regular curriculum.

The Subcommittee proposes two changes in this program that would effectively eliminate support for projects that address the teaching and learning process. The first is the proposed change in the purpose of projects funded under this section away from "advancing the use of technology, media and materials in the education of handicapped students" to "improving the delivery of education to handicapped students." The delivery of education represents the issue of access to education, not the substance of education (namely the teaching and learning that the child experiences once inside the classroom door).

The program as currently operating addresses both access and education through the projects it supports. According to Department of Education officials, approximately one third of the funds appropriated for this program are spent on projects concerned with improving access to educational services. The remaining two thirds is being spent on projects concerned with the actual instruction of children with disabilities. We believe support for these latter projects is threatened by refocusing the program solely on delivery of education.

We believe continued and critical support for instructional interventions is further threatened by the proposal to replace the term "technology" with the term "assistive technology." Use of the term "assistive technology" represents a narrowing of the focus of this program and the elimination of support for efforts designed to advance the education of children.

The definition of "assistive technology device" found in PL 100-407, the Technology Related Assistance for Individuals with Disabilities Act of 1988, refers to equipment, product systems or other items "used to increase, maintain, or improve functional capabilities of individuals with disabilities." This is the only operational definition in law or regulation of this term. Assistive technology is generally concerned with providing the person with disabilities access to opportunities and experiences and with facilitating his performance. However, assistive technology is not generally considered within the field to include instructional or educational technology that mediates the teaching/learning process. **We continue to favor strongly the current focus of the Sec. 661 program on both access to education and the education process, and would strongly oppose the proposed adoption of the term "assistive technology."**

Part D - PERSONNEL DEVELOPMENT

The bill proposes to expand the Sec. 631 authority to include inservice training of personnel in special education, related services and early intervention. In light of current and projected shortages of personnel serving children with disabilities, we would oppose including in the Sec. 631 program authority for preservice training activities.

Historically, this program has been the major source of support for programs at institutions of higher education providing preservice personnel preparation. Inservice training is currently authorized under other authorities, principally the Sec. 632 program of grants to State education agencies and under Part B.

The Subcommittee has included in the bill a requirement that students receiving fellowships under grants supported by Sec. 631 agree to either work in such areas as those authorized by the Act for a period of time equivalent to the period of time during which they received assistance or repay this assistance. We concur with the Subcommittee's concern over the need to retain the services of persons trained in part with personnel preparation funds in the provision of services to children with disabilities. However, we believe the administrative and fiscal costs of following former students and assuring their compliance with the work/repayment requirement are, unfortunately, too high.

Attracting minority students to careers in special education, related services and early intervention has been recognized by this Subcommittee as a priority need. We concur with this need. **However, we are opposed to the earmarking of funds for preservice training such as that proposed in the bill. We favor instead the use of priorities for the awarding of funds, requirements that all institutions applying for such funds demonstrate the measures they will take to recruit students of diverse**

racial, ethnic, and linguistic backgrounds to their programs, traineeships and fellowships. In addition, we join the Council for Exceptional Children in proposing a program of capacity building grants to historically Black colleges to support program improvement and the enrollment of students in programs preparing personnel for careers in special education, related services and early intervention.

Sec. 676(b) - PART H REQUIREMENTS FOR A STATEWIDE SYSTEM

Amendments contained in the House bill address the importance of outreach and training to assure that primary referral sources are knowledgeable about and play an active role in distributing information to parents about early intervention services available in their State. We are aware that States, who are still in the planning process, will be targeting such referral sources, including hospitals and physicians, in their programs of public awareness and training. In addition, as already required under Sec. 676(b)(5), when implemented the child-find component of the statewide system must include a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources. These efforts recognize the critical role that primary referral sources play in the process of early diagnosis and intervention for infants with disabilities.

We agree fully with the intent of the proposed amendments to Part H, as well as with the substance of the proposed changes. We are, however, concerned about the effect of enacting such changes at this time.

By the beginning of the fourth year of participation in the program, States are required to have certain components of their system in place, including the policies, procedures and assurances that are required. While some States are expected to postpone their fourth year participation in the program until the necessary policies are in place, other States are planning to apply for support for the fourth year on schedule. The fourth year for these States begins on October 1, 1990. These States will have put in place by that date all applicable requirements of the program as currently authorized.

The effective date of the proposed Part H amendments to EHA cannot be expected to occur earlier than late spring or summer, 1990. Following enactment, regulations will need to be promulgated by the Department of Education and application packages amended to reflect the new requirements. States which are otherwise prepared to begin their fourth year of implementation in October will have to revise their statewide system, in some cases through legislation or regulations, to incorporate the requirements of the proposed amendments, and then conduct hearings and provide 60 days for public comment on changes to the system.

There would be insufficient time between enactment of the EHA amendments and the October 1 fourth year start-up date to accomplish the required activities described above. As a result, States that are otherwise prepared to implement the fourth year of the program would be forced to delay both their applications and fourth year implementation until their statewide system reflected the proposed changes. We

urge the Subcommittee to postpone the proposed changes, particularly the establishment of a 15th component of the statewide system, until the reauthorization of Part H is considered, so that implementation of the program as a whole is not interrupted in those States prepared to start fourth year implementation in FY 1991.

ESTABLISHMENT OF FUNDING PRIORITIES

The House draft bill directs the Secretary in several of the discretionary programs as well as in the General Provisions to give priority or highest priority in the awarding of grants, contracts or cooperative agreements to certain applications or to certain applicants.

The concept of "priority" within the context of competition for project funds needs to be operationally defined in order for its implications to be fully understood and for House intent to be implemented.

A further issue is raised by proposed provisions in the House draft bill dealing with program priorities. Sec. 610 would apply a priority broadly to all discretionary programs under Parts C through G of the Act. In other sections of the draft bill, additional priorities are proposed for individual discretionary programs. These multiple priorities can be expected to result in confusion over how they should be implemented in a given program. We recommend clarification of the Subcommittee's intent with regard to the implementation of multiple priorities.

Mr. OWENS. Thank you.

Ms. Virginia Richardson?

Ms. RICHARDSON. Mr. Chairman and members of the subcommittee, my name is Virginia Richardson. I am the parent of an adult daughter Deborah, who has epilepsy and is intellectually handicapped or mentally retarded.

I am parent-training manager for Pacer Center in Minneapolis, Minnesota, and I co-chair the TAP Select Committee that attempts to provide technical assistance to parent programs in reaching under-represented parents.

I am pleased to appear before the committee today to comment on the reauthorization of the discretionary programs under the Education of the Handicapped Act.

I speak today on behalf of national groups who are members of the Consortium for Citizens with Disabilities Task Force on Education.

I would like to ask that if questions are asked, the response to those questions will be my personal opinions. I respectfully request that the Consortium will have the opportunity to reply in writing to any questions that I would be asked also.

The following organizations have endorsed the CCD testimony:

American Association of University Affiliated Programs;
Association for Retarded Citizens,
Autism Society of America;
Epilepsy Foundation of America;
Learning Disabilities Association;
National Association of School Psychologists;
National Association of Developmental Disability Councils;
National Easter Seal Society;
National Head Injury Foundation;
The Association for Persons With Severe Handicaps; and the
United Cerebral Palsy Association.

This list is not complete. We ask permission to submit a letter of endorsement as soon as a sign-on activities are completed.

With the passage of Public Law 94-142, the Congress made clear that the Federal Government has a responsibility for the education of students and youth with disabilities. This responsibility includes a guarantee of a free and appropriate public education in the least restrictive environment.

Our understanding of the meaning of "appropriate" is constantly changing with technological and other educational advances. We believe the Congress, in 1975, shared our vision that educational services for students with disabilities should be of high quality and is reflective of state-of-the-art service delivery.

The discretionary programs you consider today, each contributes in an important way to furthering this vision. Programs and services generated through these authorities assist in important areas such as promoting best practices, training qualified personnel, and in identifying new and innovative approaches to fulfilling the goals of equal education opportunity for students with disabilities.

The CCD Education Task Force wishes to commend the subcommittee for the proposed legislation, which contains many important provisions to enhance discretionary authorities under EHA.

CCD generally supports the proposed changes and hopes the subcommittee will move quickly to enact the legislation.

We have prepared detailed comments which I request be submitted for the records and which I will highlight today in my testimony.

First, CCD would like to specifically express support for the following provisions in the bill:

Number one: the change in terminology which would replace the old wording under the Act with new "person first" language. We thank you for your sensitivity on this issue;

the emphasis in the bill on the special needs of individuals who are culturally diverse and from minority groups. Our organizations have long been aware of and frustrated by difficulties in securing appropriate services and involvement of minority and culturally diverse children and youth and their families under EHA. By requiring that this issue be addressed throughout the discretionary authorities, the subcommittee draft will help alleviate some of these problems;

the additional requirements for special studies by the Department, which will greatly enhance our knowledge of implementation issues;

the new authority for a discretionary grant program focusing on the needs of children and youth with serious emotional disturbances;

the expansion in authority for transition programs;

the initiation of an ombudsman program; and

the proposed amendment by Chairman Owens, banning corporal punishment on students with disabilities.

While our testimony for the record includes recommendations to strengthen several of these provisions, overall we feel that they will make important changes to existing discretionary authorities.

Second, I would like to highly several concerns we have with specific provisions in the relating to Statewide Systems Change Grants, parent training centers and overall funding of programs.

First, Statewide Systems Change Grants.

The CCD strongly recommends the addition of language and funding authority to ensure that the statewide system change grants are able to continue and expand.

These grants are currently funded through programs for deaf-blind children and youth and programs for severely handicapped children—section 622 and 624 of the Act respectively.

These projects, as described by the Department of Education, fund, and I quote, "activities to improve qualify of special education and related services in the State for children and youth who are deaf-blind (including severely handicapped), birth through 21 years of age, and to change the delivery of these services from segregated to integrated environments."

The projects have met with great success in creating statewide exemplary practices for large numbers of students with severe disabilities.

The Department has had plans to gradually expand the number of States participating in the Systems Change Projects. Any number of States are interested in competing in such an expansion. Without additional funding to section 624, the Statewide Systems

Change projects would not be able to continue as planned by the Department; in fact, a number of existing projects would face termination.

We strongly urge the subcommittee to guarantee that these programs continue to create positive changes for students with disabilities .

Parent Training Centers.

The CCD Education Task Force very strongly supports an expansion of funding for the Parent Training and Information Centers and an increase in the numbers of centers available to parents. It was parents who were instrumental in the creation of Public Law 94-142 and it is parents who largely provide the measuring stick for high implementation is progressing. Informed parental involvement is essential and we encourage the subcommittee to expand the availability of this very valuable system of parental CCD Education Task Force supports and assistance.

There are currently nine States with no parent training and information center. This bill provides authority for five new experimental centers in high density areas. We would like to have clarification on this authority. Would this take precedent over the earlier priority for one center per State technology?

The proposed amendments have incorporated the terms "assistive technology device" and "assistive technology services," but have not included definitions for these terms.

Since the passage of the Education of the Handicapped Act, advances in the development and use of assistive technology have provided many new opportunities for children with disabilities to participate in educational programs. For many of these children and youth, the provisions of assistive technology devices and services will allow greater independence, productivity, and participation in the mainstream of our schools.

The subcommittee has demonstrated a strong commitment to increase in access to technology through its support of Public Law 100-47, the Technology-Related Assistance for Individuals with Disabilities Act of 1988.

However, there continues to be a gap between the need for assistive technology and the level of awareness among special education and related service personnel of existing devices and services available for students with disabilities .

The definitions for assistive technology device and assistive technology services used in Public Law 100-47 were created as a result of extensive discussion with consumers, special educators, direct service providers, assistive technology experts, and other organizations representing individuals with disabilities.

The inclusion of definitions for these terms in the subcommittee bill will both help to clarify the broad range of assistive technology devices and related services that are available, and increase the awareness of assistive technology as a tool to enable children and youth with disabilities to participate in and benefit from educational programs.

The last section deals with authorization levels. Finally, the CCD recommends inclusion of authorization levels that will provide sufficient funding, both for existing programs and for new and expanded programs included in the bill. Without sufficient authorization of these discretionary programs, the goal of Public Law 94-142 will provide students with disabilities a quality education in the least restrictive environment will not be realized.

Our vision is to create opportunities through education for students with disabilities to ultimately participate in a society which values and accepts all people regardless of individual differences.

We request that the subcommittee consider the importance of these discretionary authorities in furthering that vision as you consider authorization levels for these programs.

A personal comment, and our thanks to Major Owens, is he attempts to address some of the needs of under-represented persons, especially minority parents, persons who are non-English-speaking, or non-proficient English speech in parents, and those parents who are disadvantaged and low functioning themselves.

If we could keep doing things as we always have done them, we will keep getting the same results we have always gotten. And while there are some issues to be worked out, I do commend him for his work on behalf of those parents who are normally in the system.

Thank you for the opportunity to come before you today, and I would be happy to respond to questions.

[The prepared statement of the Consortium for Citizens with Disabilities follows:]

Consortium for
Citizens with
Disabilities

STATEMENT OF THE

CONSORTIUM FOR CITIZENS WITH DISABILITIES
TASK FORCE ON EDUCATION

Concerning

Reauthorization of Discretionary Programs
Education of the Handicapped Act

To

The Subcommittee on Select Education
Committee on Education and Labor
U.S. House of Representatives

February 20, 1990

TABLE OF CONTENTS

Page Number

Introduction 2

Overview 2

Comments on Draft Legislation 3

TITLE I -- GENERAL PROVISIONS 3
  Definitions (Section 101) 3
  Abrogation of State Sovereign Immunity (Section 604). 5
  Goals for Minorities and Underserved Populations (Section 610(g)) 6

TITLE II -- ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED INDIVIDUALS 6
  Special Studies (Section 618(e)) 7

TITLE III -- CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF HANDICAPPED INDIVIDUALS 8
  Statewide Systems Change Grants (Section 622) . . 8
  Transition (Section 626) 9
  Personnel Preparation (Section 631 (a)) 10
  Parent Training Centers (Section 631 (c)) 10
  Demonstration Project of Ombudsman Services (Section 641 (e)(3)) 11

TITLE VI -- INSTRUCTIONAL MEDIA FOR HANDICAPPED INDIVIDUALS 12
  Instructional Media (Section 601) 12

TITLE VII -- HANDICAPPED INFANTS AND TODDLERS 12
  Part H (Section 802) 12

AMENDMENT TO BAN CORPORAL PUNISHMENT 13

AUTHORIZATIONS 13

Introduction

The Coalition for Citizens with Disabilities is pleased to provide comments for the record on the proposed bill to reauthorize discretionary programs under the Education of the Handicapped Act (EHA).

This statement is presented on behalf of the national organizations which are members of the Coalition for Citizens with Disabilities (CCD) Task Force on Education. CCD is a national coalition of organizations concerned with federal policy as it relates to persons with disabilities.

Overview

CCD would like first to commend Subcommittee members and staff for the opportunity to comment on this reauthorization bill. In general, CCD supports this legislation and hopes the Subcommittee will move quickly to enact these revisions to discretionary programs authorized under EHA.

We have a number of comments on specific sections of the draft bill, which are summarized below. First, however, we would like to express support for the important changes to discretionary authorities that this bill would make. Specifically, we are very pleased to note the following provisions:

- The change in terminology which would replace the old wording under the Act with "person first" language. We thank you for your sensitivity on this issue.
- The emphasis in the bill on the special needs of individuals who are culturally diverse and from minority groups. Our organizations have long been aware of and frustrated by difficulties in securing appropriate services and involvement of minority and culturally diverse children and youth and their families under EHA. By requiring that this issue be addressed throughout the discretionary authorities, the Subcommittee draft will help alleviate some of these problems.
- The additional requirements for special studies by the Department, which will greatly enhance our knowledge of implementation issues.
- The new authority for a discretionary grant program focusing on the needs of children and youth with serious emotional disturbances.
- The expansions in authority for transition programs.
- The initiation of an Ombudsman program.

- The proposed amendment by Chairman Owens, banning corporal punishment on students with disabilities.

Secondly, we would like to highlight concerns we have with specific provisions in the bill, including:

- Addition of language and funding authority to allow the Statewide Systems Change grants to continue under Section 624.
- Inclusion of authorization levels that will provide sufficient funding both for existing programs and for new and expanded programs included in the bill. It will not serve persons with disabilities well for this Act to be revised and improved, if the funds to carry out such proposals are not provided. Recommended funding levels are found on Page 13 of this testimony.

CCD also has the following concerns about specific sections of the draft bill, and proposals for revision which we believe will improve the impact of this legislation on the lives of persons with disabilities. We urge you, therefore, to make the changes to the draft legislation that are outlined below.

Comments on Draft Legislation

TITLE I -- GENERAL PROVISIONS

Definitions (Section 101)

First, CCD thanks the Subcommittee for inclusion of Autism under the definition of children with disabilities in Section 101 of the bill. The recognition and understanding of the needs of children and youth with autism will help achieve fulfillment of the potential of these individuals to function in the mainstream of society. Autism is a developmental disability which, among other things, manifests itself in impaired ability to communicate, impaired sensory responses and difficulty relating to people, objects and events. Children and youth with autism are currently served under other handicapping conditions under the Act. However, the recognition of autism as a developmental disability and an understanding of the needs of children and youth with autism can greatly enhance the educational experiences and opportunities for participation in regular schools and community settings.

Second, CCD recommends that the definition of children with disabilities include students with HIV infection, in order to assure that students with HIV are neither denied access to special education and related services nor placed inappropriately.

Second, CCD recommends the following slight language changes to the definition of children with disabilities in the bill:

> "The term 'children and youth with disabilities' means children and youth with mental retardation, specific learning disabilities, speech or language impairments, serious emotional disturbance, autism, orthopedic impairments, and children and youth who are hard of hearing, deaf, visually impaired or blind, traumatic brain injury, HIV infection, other health impairments, who by reason thereof require special education and relation services"

Third, the proposed amendments to H.R. 1013 have incorporated the terms "assistive technology device" and "assistive technology services" from P.L. 100-407 (The Technology Related Assistance for Individuals with Disabilities Act of 1988) but have not included definitions for these terms.

CCD recommends that the following definitions be added to Section 602(a) (taken from Section 3(1) and (2) of P.L. 100-407):

> (24) ASSISTIVE TECHNOLOGY DEVICE. -- The term "assistive technology device" means any item, piece of equipment or product system whether acquired commercially off-the-shelf, modified or customized, that is used to increase, maintain or improve functional capabilities of individuals with disabilities.
>
> (25) ASSISTIVE TECHNOLOGY SERVICES. -- The term "assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes --
> (A) the evaluation of the needs of an individual with a disability, includes a functional evaluation of the individual in the individual's customary environment;
> (B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;
> (D) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing of assistive technology devices;
> (D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated

with existing education and rehabilitation plans and programs;
(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and
(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

Since the passage of the Education of the Handicapped Act, advances in the development and use of assistive technology have provided new opportunities for children with many disabilities to participate in educational programs. For many children and youth with disabilities, the provision of assistive technology devices and services will redefine an "appropriate placement in the least restrictive environment" and allow greater independence and productivity.

The Subcommittee has demonstrated a strong commitment to increasing access to assistive technology through its support of programs such as Part G of P.L. 99-457, and P.L. 100-407, the Technology Related Assistance for Individuals with Disabilities Act of 1988. However, there continues to be a gap between the need for assistive technology and the level of awareness among special education and related services personnel of the existing devices and services available for students with disabilities.

There is also confusion among the various disciplines regarding the vocabulary of terms used in reference to technology-related programs and services. The definitions for assistive technology device and assistive technology service used in P.L. 100-407 were created as a result of extensive discussions with consumers, special educators, direct service providers, assistive technology experts and other organizations representing individuals with disabilities. The inclusion of these terms will help to (a) clarify the broad range of assistive technology devices and related services that are available, and (b) increase awareness of assistive technology as a tool to enable children and youth with disabilities to participate in, and benefit from, educational programs.

Finally, CCD commends the Subcommittee for including Social Work services under the definition of related services.

Abrogation of State Sovereign Immunity (Section 604).

We strongly commend the Subcommittee for inclusion of this language which will ensure that states are not immune from suit for violation of the EHA.

CCD supports this section on behalf of those families who have faced difficulty in receiving relief from State violations of Part B. We encourage inclusion of this section in the final version of the bill.

Goals for Minorities and Underserved Populations (Section 610(g))

CCD shares the goal of quality educational services for ALL students with disabilities. We agree with the findings in Section 610(g) of the bill on the need to address apparent inequities against minorities in the implementation of our special education programs. We support a program of outreach to minority families to assist in accomplishing this goal through awareness of quality programming for students with disabilities and recruitment for minority special education professionals.

However, CCD requests clarification on several amendments included in the bill. We do not understand what the term "highest" priority means. Is the 1 percent set aside in the bill intended for outreach or for actual discretionary awards? CCD supports use of the set aside for awards. We are strongly supportive of directing funds toward greater involvement of minority populations in activities funded under Parts C through G, and even more strongly towards ending discriminatory practices against minority students with disabilities. We do urge that this be done with the highest priority placed first on quality. We are especially supportive of the requirement under Section 610 (g)(2)(B) (page 8, line 19) that provides technical assistance from the Department of Education or from contractors with the Department to guarantee this quality.

TITLE II -- ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED INDIVIDUALS

State Plan Requirements (Section 613)

The requirement in section 613 that states collect data with respect to qualified personnel needs to be strengthened. We recommend that the language for Section 613 (a)(3)(A) be changed to read:

> "... the number of personnel who are employed on an emergency, temporary, provisional or other basis, who do not hold appropriate certification or licensure or meet the highest requirement in the state ..."

We make this recommendation with the additional request that it be accompanied with report language noting the special professional training, qualifications and professional standards of school psychologists.

In addition, the draft bill requires collection of information on numbers of children exiting preschool into the first grade. CCD believes this will not accurately reflect the numbers of children exiting preschool programs, and recommends that the language be modified to require actual exit numbers and information on subsequent placements.

Special Studies (Section 618(e))

CCD strongly supports the inclusion of subsections (2)(B)(C) and (F).

Every year since the enactment of P.L. 94-142 in 1976, there has been a gradual and significant decline in special education students labeled mentally retarded. In the 1977-1978 school year, 40 percent (945,000) of all special education students were labelled mentally retarded. The latest Department of Education statistics, covering the 1988-1989 school year, indicate that mental retardation now constitutes only 13.9 percent (581,465) of all special education students.

In addition to the decline of the percentage of special education students with mental retardation, the CCD is also concerned with the very large discrepancies between states in the numbers of children so labelled. For example, the State of New York, with a state population of nearly 18 million people, serves approximately 28,000 students with mental retardation, while the State of Alabama, with a population of less than 4 million, identifies over 31,000 students with mental retardation. These data indicate a huge difference in labelling. The reasons for this discrepancy and their effects must be identified.

The use of separate educational facilities is a growing concern for CCD, particularly by several disability specific groups. OSEP statistics indicate large discrepancies between states on their use of separate facilities. Using students with mental retardation as an example, one state (Maryland) educates a whopping 48.4 percent of its students with mental retardation in separate facilities, while six other states and the District of Columbia educate more than 25 percent of their special education students with mental retardation in separate facilities. This compares with 33 other states who educate less than 10 percent of their students with mental retardation in separate facilities. Surely, this discrepancy among states has implications for compliance with the least restrictive environment (LRE) provisions of the law.

CCD recommends the inclusion of the following report language to accompany Subsection (2)(C):

> The Committee recognizes that many students with disabilities, particularly students with mental retardation, as well as students with orthopedic and other physical disabilities, and students with other severe disabilities, are needlessly segregated and denied opportunities to become a part of the fabric of school life. Separation and distance convey important messages about acceptance and difference. Subsection (2)(C) of the bill authorizes a special study to investigate the reasons for segregation of such students.

CCD is also pleased to see the inclusion of the special study (paragraph F) which examines the use of out-of-community residential placements for children and youth with serious emotional disturbances. The inclusion of this study under Section 618 is appropriate, and will address an issue of growing concern to parents of and advocates for these children, whom we believe are disproportionately and inappropriately placed in facilities far from home, often in a different state, when alternative day programming and family support services should be offered in their own community.

The draft bill proposes that 1 percent of Part B appropriations be set aside in order to carry out evaluations, and that no more than 25 percent of that 1 percent be used for the studies under subsection (e). CCD is opposed to setting aside a percentage of Part B appropriations for special studies and prefers a separate appropriation for Section 618.

TITLE III -- CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF HANDICAPPED INDIVIDUALS

Statewide Systems Change Grants (Section 622)

The CCD strongly recommends addition of language and funding authority to ensure that the Statewide Systems Change Grants are able to continue and expand. Currently these grants are funded through programs for Deaf-Blind Children and Youth and Persons for Severely Handicapped Children (Sections 624).

Currently twelve states have statewide Systems Change Projects. The projects, as described by the Department of Education, fund "activities to improve quality of special education and related services in the State for children and youth who are deaf-blind (including severely handicapped), birth through 21 years of age, and to change the delivery of these services from segregated to integrated environments." The projects have met with great success in creating statewide exemplary practices for large numbers of students with severe disabilities. In a letter describing this project in Colorado, the Project Directors discuss the impact of the project in their state:

> "The impact on education for all children due to the presence of these sites has been overwhelmingly positive ... in addition to the comprehensive statewide training which has taken place since activation of these funds ... there has been strong efforts and tangible outcomes of interagency collaboration."

The success in Colorado has been repeated state by state with this federal money.

The Department has had plans to gradually expand the number of States participating in the Systems Change Projects. States have indicated a strong interest in competing in such an expansion. Without additional funding to Section 624 and accompanying language clarifying the intent that funds be used for these projects, the Statewide Systems Changes Projects would not be able to continue as planned by the Department. In fact, a number of existing projects would face termination.

We strongly urge the Subcommittee to guarantee that these programs continue to create positive changes for students with disabilities.

Transition (Section 626)

The CCD strongly supports the enactment of new subsection (i), providing a new grant authority for joint applications by state vocational rehabilitation and educational agencies to expand transition services. We are, however, concerned with language in subsection (i)(3)(A) which would require grantees to provide access to transition services for all eligible youth within 5 years.

Over 200,000 special education students exit our public schools every year. For too many of these students, they exit into nothing. Whether they graduate, age out, drop out or otherwise exit our nation's special education programs, many do not qualify or cannot get into higher education, job training, vocational rehabilitation or jobs. They are forced into days and months of idleness at home because they have no other place to go. After a decade or more of costly special education, these lives are wasted and their potential productivity is lost to society.

The new subsection (i) is an exciting and urgently needed expansion of transition from school to vocational rehabilitation services. Establishing stronger linkages between special education and vocational rehabilitation agencies would significantly aid many special education students to enter Vocational Rehabilitation programs.

CCD is concerned however, that as a condition for receipt of such a transition grant, states would, within five years, need to provide access to transition services for all eligible youth. While we support this goal, funding of this grant project may not be sufficient to permit states to meet such a guarantee, thus possibly leading some states to not apply for these critical funds. We recommend removing the word "all" from subsection (d)(A)

CCD also strongly supports the inclusion of subsection (3)(B)(ix). Students who participate in transition services under this program should be ensured services under pertinent programs with the Rehabilitation Act.

Personnel Preparation (Section 631 (a))

CCD is very appreciative of the fact that the Subcommittee has included language on interdisciplinary training in Personnel Preparation Program under Part D of EHA. This type of training is sorely needed. At present most special educators, who are prepared in OSEP-funded training programs which provide little or no instruction on the role of related services personnel, are unable to handle the specialized needs of children with multiple developmental disabilities and chronic illnesses. Specifically, this training deficiency is an impediment to the developmental progress of these children and is a barrier to the provision of a free, appropriate education.

In addition, the overall need for this type of special education instruction is increasing. If data from the Ninth and Tenth Annual Report to Congress is combined, it reveals a 35 percent increase in the number of children with "multiple handicaps" entering the Nation's school systems. Should this trend continue, children with multiple developmental disabilities will be the fastest growing disability classification through the year 2000.

Furthermore, we are strongly supportive of the Subcommittee's initiative to require that related services training programs contain practica to demonstrate the delivery of occupational therapy, physical therapy and speech-language pathology in educational settings or in the community. It seems clear that better educational health and developmental outcomes can be achieved by working with children and youth with disabilities in the classroom itself or, at least, in everyday educational settings.

Parent Training Centers (Section 631 (c))

The CCD Education Task Force very strongly supports an expansion of funding for the Parent Training and Information Centers and an increase in the numbers of centers available to parents. It was parents who were instrumental in the creation of P.L. 94-142 and it is parents who largely provide the measuring stick for how implementation is progressing. Informed parental involvement is essential and we encourage the Subcommittee to expand the availability of this very valuable system of parental supports and assistance.

However, we request clarification on the language providing authority for five new experimental parent training and information centers. There are currently nine states with no parent training center. Does the priority for 5 new centers located in high density areas which currently have no centers take precedence over the previously established priority that there be one center per state?

Demonstration Project of Ombudsman Services (Section 641 (e)(3))

The CCD strongly supports establishment of demonstration projects that provide services of an ombudsman. We have four specific recommendations to improve the ability of these programs to provided needed service.

1. We recommend the deletion of the words "school based".

It is vitally important that the ombudsman be independent of the school system and thus not be compromised in any way to resolve differences.

In addition, as a demonstration project, we want to encourage a high quality competition that will demonstrate a negotiation process that will resolve differences, thus circumventing the need for lengthy and costly due process hearings.

This competition for provision of ombudsman services would not exclude any qualified entity from applying. (See Recommendation 3).

2. We support the language on page 69, lines 17-24, regarding

> "the provision and identification for personnel to assist children and youth with disabilities to resolve problems through dispute mediation and other methods, notwithstanding due process procedures, in order to further the delivery of appropriate education, related services."

We support this language because we believe the relationship between mediation and the due process protections under the law must be clearly delineated, in order to assure that the due process rights of the child are not jeopardized by any lengthy negotiation process. In no event should participation in negotiation preclude or delay due proces under EHA.

We recommend that the importance of timelines in seeking remedies be noted and such timelines should be developed for the ombudsman/negotiation process to assure efficient resolution of differences.

3. Ombudsman services should be provided by those persons knowledgeable of EHA law and skilled in negotiation.

By specifying, and thus limiting, the competition to specific types of providers, parents and children may be penalized and denied the opportunity to receive these services. The three types of providers named in the House draft may not exist in a community, may be understaffed, and/or unwilling to provide such a program, or lack the expertise in special education. We recommend that the words " ... shall be provided by social workers, parent advocates and psychologists" be deleted and that the committee insert in lieu thereof "persons knowledgeable of EHA law and skilled in negotiation."

4. Provide a specific authorization for the ombudsman program.

For purposes of carrying out a demonstration Ombudsman Program, CCD recommends an authorization of: $2,000,000 for fiscal year 1990. Grant awards should reflect the size and need of the State in which the program operates.

TITLE VI -- INSTRUCTIONAL MEDIA FOR HANDICAPPED INDIVIDUALS

Instructional Media (Section 601)

CCD recommends that the language under this section authorize all students to access these programs.

There are students with disabilities other than visual and more traditional perceptual disabilities who can benefit from the recordings that are authorized under these two sections. Expansion of eligibility would be particularly helpful to other students with disabilities who have limited or no reading skills, or whose disability otherwise affects their ability to read printed material. We recommend that on Page 73, line 20, the words "or other" be inserted following "perceptual."

TITLE VII -- HANDICAPPED INFANTS AND TODDLERS

Part H (Section 802)

CCD supports the proposed amendments in Section 802 of the bill. CCD believes that the primary referral source is a critical link between families and the comprehensive, statewide early intervention program. There is a need to provide a primary referral source with information and training on early intervention to assure that families have access to appropriate resources on early intervention program options available to them.

AMENDMENT TO BAN CORPORAL PUNISHMENT

School systems that use corporal punishment are reported to use this punishment on children with disabilities (Rose, 1983). There are thirty states that permit corporal punishment. The Office of Civil Rights (OCR) reports that 80 percent of the recipients of corporal punishment are males. Minorities receive corporal punishment at twice the rate of non-minorities and 47 percent of the students in special education are minorities.

A survey of principals reported that 50 percent of the principals used corporal punishment more than eleven times per month.

Parents have been thwarted in preventing the use of corporal punishment on children with disabilities. The OCR regulation that states corporal punishment violated the student's rights when the behavior punished is caused by the disability has been totally ignored by school systems which use corporal punishment on students with disabilities. The courts have not supported the protection of students with disabilities. The purpose of the ban on use of corporal punishment included in the Committee bill is to protect the rights of these children, and to rectify decisions made that withdraw these protections. Since parents cannot rely upon the IEP process or the courts to protect their children with disabilities from corporal punishment, we urge that you adopt the Chairman's amendment for prohibiting corporal punishment for children with disabilities.

AUTHORIZATIONS

CCD makes the following recommendations for specific authorizations for the first year of the renewal for the following programs, with authorizations in the out-years based on these recommendations plus appropriate cost-of-living increases. For all other programs we recommend a cost-of-living increase.

Section 624	Severely Handicapped	$11 million
Section 626	Transitional	$30 million
Section 627	Children with Serious Emotional Disturbances	$15 million
Section 631(c)	Parent Training	$10 million
Section 641(3)(3)	Ombudsman Program	$2 million

The $8.1 million authorized for Secondary Education and Transition Services is woefully inadequate. Our nation invests billions of dollars every year to educate children with abilities. Regretfully, thousands of these students have no jobs, no training, no programs to enter when they leave school. Thus this huge investment by government, the family and the child is wasted. Countless young adults with disabilities are forced to languish at home, robbed of the opportunity to become more independent and self-sufficient.

The restructuring of Section 626 will be meaningless if the Congress does not also greatly increase the authorization level for this critical program. CCD strongly urges the Committee and the Congress to authorize at least $30 million for Section 626.

Mr. **Owens**. Thank you. I want to thank all the members of the panel.

Why don't we start with you, Ms. Richardson, in your testimony you expressed some reservations about the provision in the proposed transition initiative requiring transition services for all eligible youth within five years of the State receiving the grant.

Why is the CCD concerned about this eligibility requirement?

Ms. **Richardson**. I don't know if you would like to hear from a member of the CCD, but I believe one of their concerns is I believe now—and I think it's one of the same concerns that was stated by Ms. Hale—are we referring to service before graduation or afterwards. If we're referring to service previous to that, that ability to do that is written into the IEP somewhat. And I think if we are talking about service after high school or after that period, it calls for a commitment of additional funds and it calls for a commitment of additional efforts if we are going to mandate that that service be provided after five years.

I think the concern of CCD was that if you required this to be mandated and fully implemented in five years, then those States that buy into that then must have full implementation in five years; and the States that choose not to buy into that then are not under that restriction.

So I think CCD expressed the concern that if that requirement was there that some States might not buy into it as a part of that requirement. That may be real or not real, but I think that was one of their concerns.

Mr. **Owens**. I think you mentioned before that they would be happy to give us some written answers to questions, so we would like them to elaborate on that in writing.

Ms. **Richardson**. Right.

Mr. **Owens**. The next question is to you more personally: As a minority parent, what was your experience with the service delivery system for your child? Were any of the providers of these services of minority background? And how did you gain information about these services? And what would you recommend in terms of improving outreach services to minority parents?

Ms. **Richardson**. I think we are going to be here until day after tomorrow.

Mr. **Owens**. You can send it in writing—give us a summary.

Ms. **Richardson**. I have to say that when we first found out Debbie was going to receive special education, I didn't even know what retardation meant, so I went to the library to try to find the answer.

And because I met a neurologist who said to us at that time that there are two competing philosophies in education, and one of them is: Do you educate your children with handicapped children as long as possible? And the other one is that you separate the child and send the child with handicapped children as quickly as possible.

He didn't tell us which one was right or wrong, but because of my experience of a black person growing up in the South and I know what segregation does both to the person who goes out of the room and the person who stays—and even though a psychologist had told us Debbie would be severely retarded and would never learn to read and write, we came back to the school and asked that she be left in first grade; and much to everyone's amazement, she learned to read and write in first grade like all of the kids.

She now lives in a five-room apartment with another young woman and has seizures all over the town; she still has seizures at the age of 34, and manages to live alone and work when her seizures are not so intense.

I did not get in to the system. I did not join a disability group because I was not about to join a disability group where people would mistreat me because I was African-American, and we were dealing with the same issues; so I had an issue of a child who was disabled and I certainly didn't want the issue of racism to be involved. So I did not join a disability group. I never have been—until I was in the last 10 years have joined a disability group.

I did not receive any service in the system until I met the director of the ARC when Debbie was 15, and I found out there were some resources there. I found out that I have to make sure that Debbie's family is there to represent her or the system will not serve her well.

I guess one of my commitments is, I stayed out of the system to protect myself, and I think that was a decision for myself and my family at that time. But at the same time, I did not have the advantages of any of the resources of the system. So parents need to be in the system to be aware of the system.

But I think when you take people who have typically been excluded from the system, we didn't get the systems built up—we've spent lots of money to build up separate systems, and then it takes some special efforts and some special ways of doing things then if you are going to try to invite people back to the birthday party that you've excluded them from.

So I guess I don't have any simple answers. We work at our center with parents who are disadvantaged and represent the under-represented group, and I do know it takes more effort and it takes more time, it takes more assistance, to provide information for some of the parents that we are trying to reach.

I do think just as we look at the demographics in the coming years, and the children of color who are going to be in special education and the importance of having personnel who look somewhat like you in there—somewhat—and I think the same thing is true of parent centers.

So I think people tend to go places where it looks like there's somebody there who will serve their needs and will understand those needs. So I think the parent centers who are dealing with some of the same issues that you are dealing with in preparing professionals.

Mr. OWENS. Thank you.

Dr. Hale, I'm a little confused on some things you stated. You stated earlier in your testimony that "States are put into place requirements that transition plans occur between schools and other relevant agencies."

Yet, you then later ask that the definition of transition services be carefully considered before its inclusion. Later in your testimony you indicate your support of a proposed five-year interagency States grants.

What are some ways you see these being implemented by the States, and how do you see States being held accountable for post-secondary student outcomes?

Ms. HALE. Mr. Chairman and members of the committee, part of my response is that of a director in a State that is doing a lot of work in transition and part of it is as President of NASDSE.

Mr. OWENS. Do they agree with each other, or——

Ms. HALE. No, one expands beyond, and I'll point out the specifics.

Our concern is in the association is that transition services be defined. Whatever the responsibility of the special education services is that that be clearly delineated and defined within the statute.

Our concern is that as we look at new populations of students, we look at expanding ages, we look at expanding responsibilities at a time when our resources are, at best, level, if not decreasing; and we need that clear definition in order to know what it is that special education really is all about.

In Minnesota, the way we have addressed this problem is that we define transition—the responsibility of special education for transition services. Is it special ed is responsible for the instruction and preparation for job placement, for example, but not for the actual job placement. But that is the responsibility of vocational education or rehabilitation services.

We have defined special education is responsible for the instruction and preparation for community living as another example. But the actual placement in community living facilities would be the responsibility of rehab services. That's the type of clarification we are requesting in this statute.

Mr. OWENS. What strategies would you propose to increase the supply of minority teachers in special education and related services? And how does the Clearinghouse for Professionals and Special Education help to meet this need?

Ms. HALE. Mr. Chairman, our request is that we address it from two angles: One is that we're looking at capacity building all across all higher education training programs in the State, that we need to increase the supply of minority teachers in special education. And, therefore, that all applications need to address that issue.

Then the other part is that we need to assure that all of our programs meet the needs of minority students. So in that sense we need to make a priority in any program that addresses instructional services to students need to address the needs of minority students.

So we're saying it's an across-the-board issue rather than a focusing or a targeting of funding issue. It's an issue that we need to address in all applications.

Mr. OWENS. And can it be addressed without targeting, without focusing? Are you implying that we don't need to take any action in the legislation?

Ms. HALE. No, Mr. Chairman, I think there might be a way to do that. But the way to do it would be to emphasize that any application—for example, any higher education training application must address the needs and increase the supply of minority teachers in special education; how do they propose to address that within the focus of their grant, for example. Or any demonstration program, for example, would need to address the needs of minority students, that it be across the board.

Mr. OWENS. Should you have language which requires that the problem be addressed across the board, is that what you're saying?

Ms. HALE. Yes, Mr. Chairman, that would be helpful.

We also need ways to support the capacity building within higher ed training programs that perhaps don't have the type of special education training programs that they need to have; and perhaps there could be some incentives for them to pair with some other college that has been successful in implementing these type of training programs.

Mr. OWENS. Is there any way the States' comprehensive system of personnel development can be more effectively used to provide this in-service training for minority professionals to serve in the field of special education?

Ms. HALE. Sure, Mr. Chairman, if I understand the question correctly—sure, through studying priorities within our States special education grant, our State plan, to address the priority needs for serving students who are minorities, but also increasing the supply of teachers who are minorities.

Mr. OWENS. Mr. Ballard, why do you think we have so little success in the area of training minorities at the schools that have been receiving the funding up to now?

Columbia University in New York City, for instance, should have an impressive record in terms of the number of minority students that they have trained, shouldn't they?

Mr. BALLARD. Mr. Chairman, I honestly don't know why we haven't had the success that we would like to have. I'll tell you, CCD believes that it is appropriate at this time in history, given the situation, that we certainly write matters into the statutes themselves. We may have a difference on how to approach it, but that action needs to be taken by the Congress and these amendments; but I can't answer the first question, Mr. Chairman.

Mr. OWENS. Mr. Ballard, an analysis of over 200 transition programs has provided us with successful strategies that should be adhered to: such as, the development of State and local level interagency agreements, State and local level transition policy, accessing a variety of integrated employment settings and ensuring good communication and further education of secondary, and postsecondary personnel.

Do you feel that funding five-year States' grants for transition without specific guidelines such as these is prudent? And if not, what are your suggestions?

Mr. BALLARD. The matters that you just brought up as components of transition, I think would probably be an open question of how comprehensive a listing you would want in the transition program itself.

I happen to think that if we're referring, Mr. Chairman, to the section, or the revision of the secondary and transition program, I think it's pretty well along in laying out what would be needed for the joint grants.

I would like to, however, if I can belabor the point, bring up again the issue of probably needing a more precise definition if we are to include transition in the definition of special education itself, which, as I said before, becomes a legal responsibility now that it's communicated directly to all the school districts of the country.

We've got two things happening here. One is a very worthy set of grants over a five-year period; the other is having placed and proposing to place in the definition of special education, transition as a part of that definition, I think that needs some defining, Mr. Chairman.

Mr. **Owens**. You basically agree with Dr. Hale's comments on that point?

Mr. **Ballard**. Yes, we are pretty much in agreement on that issue.

Mr. **Owens**. Thank you all.

Mr. Bartlett?

Mr. **Bartlett**. Thank you, Mr. Chairman.

Let me start with the language on the minority college and grant set-asides.

As I understood and I paraphrase greatly—as I understood Ms. Hale and Mr. Ballard, your testimony was that instead of a specific dollar or a percentage set-aside for colleges and universities that have at least 25 percent minority, you would instead, in the highest priority kind of language, you would instead, state that all grants should seek to recruit and attract—as part of the grant proposals—grants and contracts that would provide for minority placement and training.

Is that the gist of your testimony? So you don't like what's in the bill, what's in this proposal, and you would urge a different approach?

Mr. **Ballard**. Mr. Bartlett, we like the underlying concern and the desire to find solutions. We like that a lot. We have a history, as I'm sure you know, Mr. Bartlett, we have a history of not liking to put earmarks, if at all possible, in particular programs, because you start fencing things up and pretty soon the whole prairie is fenced up.

But we believe that there are approaches that you can take that will achieve the same end: (a) in requiring by statute that the overall planning on all programs—C through G, as a matter of fact—involve participation of ethnic and multi-cultural representation.

And, secondly, that in the language we would propose that in all programs and projects that are let under Part C through G, unless inappropriate, that they address ethnic and multicultural concerns.

And, thirdly, we believe that there should be built in—they won't be so happy with me at the Department, perhaps, in saying this—but we need to build in some kind of annual reporting mechanism to you folks up here, and that, of course, then means to us and the public as well, on exactly what progress is being made on an annual basis.

Mr. **Bartlett**. So you want us to do something about the underlying issue, but you don't like what we've done in the language in this bill and you would replace it with what you just described and what you described on page 5?

Mr. **Ballard**. Yes, Mr. Bartlett. Very specifically, we would recommend against the earmark approach as such, and we've offered alternative language.

Mr. **Bartlett**. Ms. Hale?

Ms. **Hale**. Mr. Bartlett, we are in agreement with the Council on Exceptional Children on that point.

Mr. **Bartlett**. Ms. Richardson, do you and your organization then support the earmarking or would you take more of the approach that was outlined by the CEC?

Ms. **Richardson**. I don't know if I have the experience to comment on this, but from a practical standpoint, I have read grants in the parent training competition, and I guess I'm always concerned when we say that we just need to include it in what we're already doing without some accountability of seeing if that's working or not. I guess that's my concern.

We say don't do it this way, but do it another way, and then how do we know the other way is working?

I think sometimes people tend to want to set aside because the other way isn't working. I guess the question I have, well, you know, will what they are proposing work, and I don't have any background information to say that.

I think the coming times require us to do some things differently and some new in our ways. I think we are going to have to begin to stretch our imagination in doing some things a different way.

Mr. **Bartlett**. I might note, Mr. Ballard, that current law does not have any kind of an emphasis on minority grants. So your proposal to place that emphasis in the law or specific language would be a step forward.

Ms. Richardson, I want to ask you about transition and transition services.

To what would you attribute the crisis of youth or special education graduates, aging out of special education in the high school into no services at all? And if you were in our shoes on transition, what would you do about it?

Ms. **Richardson**. I guess this is my personal opinion, having gone through that already.

I think in the school we at least know what the rules are—we are accustomed to going to schools and participating at that level. I think when you get into life after school, it's like going back in the swamps, and there are different set of rules everywhere—there are limited resources.

Mr. Smith isn't here, but I guess I think he very appropriately did identify the real issue—and all of this is lack of resources. I think we have many agencies out there doing a little bit of the piece with not adequate resources. I guess I wish there was some comprehensive way of dealing with that.

I know the Division of Rehabilitation cannot serve maybe 20 percent of the people they identify. So I guess I wish that there was a comprehensive say of serving students in those transition years, and some commitment to adequate resources.

Mr. **Bartlett**. Do you think that schools should provide transition services during high school or the transition to postgraduate? Do you think, that that should begin in high school?

Ms. **Richardson**. I think in Minnesota we are already doing that, because we say by the age of 14, or by the ninth grade, we begin to deal with transition issues and how the student will live independently and work and play in the community. So I think in Minnesota we already are beginning to try to approach that. I think that

that is absolutely necessary. I think there needs to be a much closer look at what we're doing in those high school years, and we are spending money and time to make sure that that is leading somewhere at the high school.

So I understand the education system wanting to clarify some of the rules and definitions as to what we're talking about when we define transition services. Because I think while we do the planning, sometimes the appropriate agencies then do not carry out some of the things that we would like to plan during those high school years that are non-educationally based.

Mr. BARTLETT. Mr. Ballard, if you were in our shoes, what would you with regard to transition? You testified against the idea of providing transition services as part of special education.

Mr. BALLARD. I did?

Mr. BARTLETT. Is that right?

Mr. BALLARD. No, I certainly hope not.

Mr. BARTLETT. Sorry.

Mr. BALLARD. What I'm saying, Mr. Bartlett, is that before we—it's one thing to have the secondary and transition program—the discretionary program. But what I'm saying, Mr. Bartlett, is that we need to think through very carefully what this will mean; the same as I believe Norena was saying, very carefully what we mean if we make it included in the definition of special education, because then it becomes a requirement upon enactment of this law of all the school districts in the country.

Mr. BARTLETT. How would you suggest we should define it?

Mr. BALLARD. I'm not certain. This was a surprise to me, to tell you the truth, and we probably haven't thought it through as much as we need to, Mr. Bartlett, but it certainly needs to be talked through.

Mr. BARTLETT. I think it would be helpful if you could help us with that. It does seem to me intuitively that if the goal of special education is not a transition into postgraduation life, then I'm not certain what it is; and I think we do need to think it through.

I do take note of your caution as well as CCD's that for special education teachers that we be careful and not mandate more than we can deliver. But it does seem to me that some kind of transition from school to work is necessary to begin at the secondary level.

Ms. Hale?

Ms. HALE. Mr. Chairman, Mr. Bartlett, I am hesitating about sharing what we are attempting to do in Minnesota because I'm like Virginia, we could be here through tomorrow. But we are looking at interagency coordination efforts and transition.

We are also looking in interagency coordination efforts in the birth age 5 population. We are a birth mandate State. And now we're looking in interagency cooperation around the mental health issue.

The way we're approaching is to try to define—first, let me say we have three levels of goals. We have interagency coordination at the individual child and his or her family level. We have State mandates for community interagency planning in each of those areas. And we have requirements at the State level but the agencies get together and plan.

But within all three initiatives we have to struggle with what is the responsibility of special education? What is the responsibility of the health system? What is the responsibility of the rehabilitation services system?

And that's been a real struggle for us. But we believe that special ed can't keep expanding and taking on more and more of these services that may be available through other agencies' resources; but instead we need to look at vehicles on how to access and coordinate and collaborate all of those services.

So we're struggling to define what is special education instruction and related services that are needed in order to benefit from that instruction. And then we're also struggling to define rehab services, vocational education service, and et cetera.

Mr. **Bartlett**. So what would you do to improve transition services in this legislation, if anything?

Ms. **Hale**. Mr. Bartlett, I'm speaking now as a State Director in Minnesota. I could see two approaches. One is to emphasize special education instruction portion, that is, instruction—we think of transition as three steps: preparation for postsecondary, then the actual handoff to other agency services, and then follow-up. Special education has a great responsibility in the preparation for the postsecondary. So any instruction in preparation for job placement, preparation for community living. Actually, even community instruction where they have experiences in the community with community living or with jobs; but not the actual job placement making money. That would be rehab's services' responsibility.

The other approach might be an emphasis on the process for agencies to coordinate at the individual child, or within the community level, or at the State level.

Mr. **Bartlett**. The proposal in this bill for joint application between the school and the vocational rehabilitation agency with the delineation of the duties; is that a step in the right direction?

Ms. **Hale**. Yes, Mr. Bartlett, that would be a step in the right direction.

Mr. **Bartlett**. I detect that you are afraid you are going to get stuck with the rehabilitation tab, and rehabilitation is afraid that they are going to get stuck with the education tab. Is that it?

Ms. **Hale**. We will be confused as to who is responsible for what.

Mr. **Bartlett**. If you have any additional testimony that you would have as far as recommendations for how to word this I think we can hold the hearing record open.

Mr. **Ballard**. Would you mind if I belabor our dilemma again between that definition of special education and the requirements of the secondary and transition program?

The secondary transition program says that at the end of five years you shall make accessible to all children necessary transition services. Placing it in the definition of special education in the EHA says you shall make available tomorrow.

Mr. **Bartlett**. You think we should mandate that it be available in five years or not?

Mr. **Ballard**. We're not certain from our standpoint. But if we are going to say it is now a requirement as a part of the overall Public Law 94-142 then perhaps that's the thing to do and do it now, but make sure that we've clearly delineated it—and Norena did a good job of laying out some of the parameters of what it would be for special education.

But there's a contradiction there now. We believe between the programs——

Mr. **Bartlett**. In terms of a legislative——

Mr. **Ballard**. Yes.

Mr. **Bartlett**. You're suggesting on the one hand there's a technical drafting objection that you have, and that is that you think that the current draft mandates it today.

Mr. **Ballard**. Right.

Mr. **Bartlett**. On a substantive basis you have some concerns about mandating transition services for five years from now but you're not prepared to say whether you're for that or not.

Mr. **Ballard**. I think we ought to clear up the contradiction.

Mr. **Bartlett**. Putting that aside, now the question is should we mandate it at all, transition services, as a part of special education? Should we at all?

Mr. **Ballard**. I would say that if we can get a clear and agreed-to definition of exactly what we mean—as Norena laid out some of the parameters of what would be the responsibility of special education.

Mr. **Bartlett**. If you could provide us additional testimony and suggestions for how to accomplish that it would be most helpful.

Ms. **Richardson**. Mr. Bartlett, can I comment on that?

Mr. **Bartlett**. Yes, Ms. Richardson.

Ms. **Richardson**. In Minnesota, in our last legislative session a year ago, was written that all IEPs for children age 14 of ninth grade will address transitional issues. I can't tell you how that it has been helpful in addressing some of the issues because we found that staff was not addressing the issues in the conferences. We need to have people begin to focus on what we are about—and that law has helped a lot from the service end for parents.

Mr. **Bartlett**. That's very helpful.

One last question, and I do want to ask Ms. Hale, particularly in your capacity either representing the national organization or the State organization or as a special education teacher, give us some help on and your opinion on the proposal—the chairman is considering which will no doubt generate a good deal of controversy—to prohibit corporal punishment against disabled children.

In your opinion, from the perspective of the disabled student with a learning disability or a student with a hearing impairment, or some other kind of disability, if we were to have two sets of disciplinary approaches—one for students that are classified as disabled and one for non-disabled—does that hurt or help the disabled student?

Ms. **Hale**. Mr. Bartlett, first let me comment that NASDSE is surveying every State director, and we will be submitting written testimony. We don't have benefit of that here today so I can't speak for all the States.

I do believe that it would confuse us further to have separate standards. Local districts—at least in Minnesota, and I believe this is true in many other States—are addressing; they're bringing parents together, and teachers together, and they're sitting down and they're developing human rights policies and disciplinary policies that relate to individual child needs, and the procedures they will use within their district whenever there is an emergency situation, for example.

My concern as the State Director—what I am hearing is a real need for making it a staff development priority that we emphasize non-adversive approaches or positive approaches for working with students that have behavioral concerns.

Mr. **Bartlett**. Disabled students or non-disabled students?

Ms. **Hale**. Both. Most importantly, disabled students right now—but for both students. And we will be making that a priority this next year.

We are also seeing a need to emphasize the procedural safeguards and informed parent consent and that we clarify that through policy at the State level. So at the district policy level we also have some State level.

Mr. **Bartlett**. So a prohibition against corporal punishment for disabilities students in a school which uses corporal punishment for non-disabled students is helpful or harmful to the students?

Ms. **Hale**. Mr. Bartlett, I believe it confuses the situation. You have to stop and think, now, which student is this and so, therefore, what procedures do we use?

I think it just confuses the situation.

Mr. **Bartlett**. Mr. Ballard, do you have a comment or recommendation for us?

Mr. **Ballard**. Yes, the position of CEC on the issue of banning corporal punishment is that it should be taken up as a matter by the Congress for all American children. At one time, dealt on its own merits in total and totality, and perhaps it would be an amendment to whatever. Though our policies, by the way, are very clear on prohibiting, by being against corporal punishment, we feel it should be taken up for all children at once.

Mr. **Bartlett**. Thank you.

Thank you, Mr. Chairman.

I very much appreciate the testimony of these three witnesses. I will be seeking additional—as I know you will—comments on some of the specifics of your testimony as we go along.

Mr. **Owens**. Just before I thank the panel members, I would like to note that the statistics and information that we have shows us clearly that children with disabilities are abused in far greater numbers than children who don't have disabilities. I hope you remember that they are not equal at this point.

Thank you for your testimony.

Our final panel is—I want to thank them for waiting—Dr. James R. Yates, the Chairman of the Department of Special Education at the University of Texas; Dr. Norma J. Ewing, Department of Special Education, Southern Illinois University, and we will have testimony by video tape from Ms. Georgia McMurray of New York City.

Again, I want to thank you for waiting, and repeat that your entire statement in writing will be entered into the record, and we would like for you to elaborate on it further or make any comments that you might not have included, and we will also ask for further elaboration during the question and answer period.

Would you like to begin, Dr. Yates?

STATEMENTS OF JAMES R. YATES, CHAIRMAN, DEPARTMENT OF SPECIAL EDUCATION, UNIVERSITY OF TEXAS, AUSTIN, TEXAS; NORMA J. EWING, CHAIRPERSON, DEPARTMENT OF SPECIAL EDUCATION, SOUTHERN ILLINOIS UNIVERSITY, CARBONDALE, ILLINOIS, AND GEORGIA McMURRAY, NEW YORK, NEW YORK

Mr. Yates. Thank you very much, Chairman Owens, it's a pleasure to be here. And I congratulate you and Mr. Bartlett for the care and attention that you've taken to this important piece of legislation.

This country is changing drastically and dramatically in terms of the its demography. It's not only growing older—in the next 10 years, 75 percent of the households in this country will be headed by someone that's more than 45 years of age. And it's clear and easy to see that people that are 45 years of age are not as interested in children in school as they are less likely to have such children.

It's also very clear that this country's in the fact that it is becoming less white. This country, in 10 years, will have one of every three citizens to be either black, Hispanic or Asian American. Hispanics are clearly the fastest growing ethnically identified group in this country, with the Census Bureau reporting that between 1980 and 1988 there has been a 39 percent increase in the number of Hispanics in this country.

These kinds of changes and the ethnic distribution of this country are producing some also very interesting and political changes. In 1986, there were 6,000 black elected officials. In 1987, there were 3,314 Hispanic elected officials. This is particularly interesting, I think, in terms of Hispanics as more than 65 percent of the Hispanics are too young to vote.

But also the youth in this country are changing and that the youth are much more likely to be members of ethnically identified minority groups. In fact, already today the majority of entry level workers in most metropolitan areas are in fact minority youth.

The year Census reports that for children between the ages of 5 and 17, you have a group that represents almost one of five—17 percent—come from homes where English is a second language. If I may use Texas as an example, for the past three years the majority of public school students have in fact been minority.

And if you look at the kindergarten population—as educators it's not hard to look at kindergarten and see who will be in the first grade, the second grade, and on through the system—more than 51 percent of the children in kindergarten in the State of Texas are Hispanic. So within the next 10 years we can see that there's a very different population of children that will be emerging through the system.

But this is not a temporary bubble in the system, as the average age of white women in this country is almost 33 years of age. The average age of black women is 25 years of age. And the average age of Hispanic women is 22 years of age.

My observation is that you are much more likely to be pregnant if you're 22 than if you're 33.

But also the conditions of children are changing dramatically in this country as well. Unfortunately, we have to report that 22 percent of all children under 17 years of age live in poverty in this country. But if you're black, 45 percent of those children live in poverty. And if you happen to be a Hispanic youth, almost 41 percent of those children live in poverty.

Not only is that a significant figure, but that figure, unfortunately, is not only increasing in terms of percentage, but also in terms of real numbers.

The concept that it's a traditional family and home no longer exists. Two-thirds of the children in kindergarten have mothers who work outside the home. If you look at the traditional structure of schools, we find that we're all concerned about dropouts. Fourteen percent of, in very conservative generally agreed upon figures, 14 percent of children that are Anglo in school do not complete high school. But yet if you're black, conservative estimates are that at least 25 percent of those youngsters do not complete school. And yet 40 percent of Hispanic children do not graduate from high school.

And if you look at certain large metropolitan areas like New York City, if you're a minority, 60 percent of those minority youngsters do not complete high school.

And if you look at a study recently completed in Texas, and instead of looking at who enters ninth grade and who is around in the twelfth grade to see who drops out, let's say looked at youngsters in the sixth grade to see who was still around in the ninth grade, and found that 30 percent of those youngsters were no longer there.

And yet there are other variables like the story of crack babies is yet to be told. The conditions of children is clearly changing.

Unfortunately, many of these characteristics of changing demography also closely associated is what we define as high-risk youngsters. The recent nationwide Phi Delpha Kappa study had one question of great interest to us as special educators. It asked principals and teachers throughout this Nation: What was the most effective technique that they had for addressing the problem of high-risk youngsters?

Their answer was: We refer them to special education.

So the general system for serving high-risk students begins to sound very much like a special education delivery system.

For me, this produces an area of significance in terms of professional issues. Specifically, those issues break out into two categories: those of manpower and manpower relates to both numbers available as well as representation within those numbers, and also then to the knowledge base and/or the research and development activities associated with the profession.

In 1980, one of every eight teachers was, in fact, minority. However, the year 2000, given the trend line established, only one of 20 teachers will be minority. Today, six percent of the teachers in this Nation are black. Almost two percent are Hispanic. So clearly, most of the teachers in this country are in fact Anglo.

But perhaps it's not a more clear message than to look at the highest degree awarded in this country—the doctorate. In 1988, there were 805 doctorate degrees awarded to black citizens. There were 594 doctorate degrees awarded to Hispanic citizens. Asian Americans had 612 doctorates awarded. Native Americans had 93 doctorate degrees. Anglos received 20,685 doctorate degrees in 1988 in this country.

It is not that I believe that you must be black or Hispanic to effectively teach black or Hispanic children, be they handicapped or not handicapped, but I do believe, as the Carnegie Forum in 1986 stated, race and background of their teachers tells them—children, that is—something about authority and power in contemporary America.

The manpower issue is very significant in the State of Texas, if I may use it as an example again. In 1985, the State of Texas awarded special assignment permits for those individuals that do not have credentials to teach in the area they are assigned. In special education they awarded 543 special assignments. In 1986, 629. In 1987, 736. And in 1988, over 800 special assignment permits.

The other side of that equation is the certificates being awarded. In 1985, 729 special education certificates. In 1986, 484. In 1987, 334. The manpower issue is truly significant.

I'd like to address briefly one other additional area, and that is the area of the knowledge base on which we approach this problem. And I would address it also within the context of the changes in the legislation. In terms of set-aside, I have absolutely no quibble associated with that as a concept and issue of need.

However, I do have some significant problems associated with that in terms of perhaps a different issue. By having a set-aside for those historically technically identified institutions of higher education it does in fact release from responsibility those institutions such as I represent—the University of Texas at Austin—to address those issues. That it not pragmatically would, but in terms of the politics of the process, it simply says that places like those first tier research institutions can simply say, those issues of minorities are going to be addressed and historically minority identified institutions.

I think that is wrong because I think it's also equally clear that, with few exceptions, those historically ethnically identified institutions are not what we call generally in this country first tier institutions of higher education. They are much more likely to be those institutions for historical and other reasons have been deprived of the resources and the development opportunities to make them first tier institutions, but that is a reality.

And no matter what we do in terms of this particular legislation, it will be very difficult for those institutions to reach, as we might say, the first tier because the general matter of resources and general matter of expertise available. So I have some concerns about that.

I would simply conclude with one additional point about what I would call the critical mass associated with research in this area. In a recent issue of Exceptional Children there was a special issue devoted to the issues of multiculturally children and also handicapped. of the 8 or 9—I believe it was 10 articles—that addressed those children, I went through and looked at the citations.

The citations in that article, 27 of the citations by far are the largest number of citations related to these children were citations that have emerged from one federally supported research project associated with addressing the needs of limited English proficient children and also the handicapped. Those all came from the same institution and I describe, therefore, for the need to look at the concentration of resources in the institutions that have capabilities and can in fact produce a significant body of knowledge.

I thank you very much.

[The prepared statement of James R. Yates follows:]

Demography As It Affects Special Education

James R. Yates

One of the most powerful forces affecting education in general, and special education in particular, is demography. While changes in demography are exceedingly important to educators, it is almost totally beyond the control of educators to alter or change the directions of demography. Therefore, educators must familiarize themselves with demographic characteristics in order to formulate appropriate responses by the educational enterprise.

DEMOGRAPHIC VARIABLES

Age

This country's population continues to grow older. The median age has increased to approximately 32 years for White citizens, and there are more than 30,000 people in the United States who are over 100 years of age. Every week, 210 Americans celebrate their 100th birthday. We have more than 2.2 million people over 85 years of age; significantly, more than half of them voted in the 1980 presidential election. Between 1980 and the year 2000, the number of 85-year-olds in this country will have increased 123% (Longino, 1986). By the year 2000, 75% of all heads of household will be over 45 years of age (Exter, 1986). Obviously, this is a powerful and increasingly politically active group of citizens. One need only look at the effect of having a majority of voters that DO NOT have children in school to understand the effects of this large older population on resources and programs of schools.

Ethnicity

Not only is the U. S. population becoming older, but it is becoming less White. The numbers of Black, brown, and Asian citizens are dramatically increasing, with Hispanics representing the fastest growing population in this country (Austin American Statesman, 1986). The Census Bureau reported that, as of March, 1985, the Hispanic population in the United States had increased some 16% in a little over 5 years, compared to the national population increase of 3.3%. Hispanics now represent 16.9 million people in the United States, an increase of approximately 2.3

million since the 1980 census. Reich (1986) projects that by the year 2080, the Hispanic population of the United States, now representing 7% of the population, will have increased to 19%. Currently, there are approximately 247 Black mayors in the United States, and almost 6000 Black elected officials. In 1986, there 3,2092 elected Hispanic officials (Lim, 1986)--an amazing statistic since 65% of the Hispanic population are too young to vote, and some 14% are legally ineligible to vote. The political power and influence of minorities is undeniable in a nation which, by the year 2000, will have 260 million people, one of every three of whom will be either Black, Hispanic, or Asian-American.

Language Minorities

A dramatic and clearly defined increase in the number of language minorities has occurred in this country (Omark & Erickson, 1983). In 1980, there were 14 or 15 major language groups with almost 2,400,000 students between the ages of 5 and 14, and this number of language minority students is projected to increase by approximately one-third by the year 2000. By far, the largest language minority group is Spanish-speaking, with more than two-thirds of the entire language minority population being represented by Spanish speakers. The number of Spanish speakers in this country is expected to increase some 48% between 1980 and the year 2000, numbering more than 22 million persons by the year 2000 (Macias, 1985).

Youth

Not only is the population growing older and less White, but the odds are significantly greater that its youth will be members of ethnic minority groups. Taken together as a group, it is a more frequent phenomenon for the ethnic minorities to comprise the majority of public school students. For example, in the state of Texas, 51% of kindergarten students are Hispanic, with the majority of elementary age students being members of minority groups. Before one hastens to associate these demographic shifts with a specific geographic area, such as the Southwest, one must remember that Chicago represents the third largest Hispanic population center in the United States (La Familia en Marcha, 1984). It should be noted that, even today, 50% of the population of the United States resides east of the Mississippi River. Large city school populations are overwhelmingly minority: Miami, 71%; Philadelphia, 73%; Baltimore, 80%, and so forth (McNett, 1983).

These shifts in ethnic membership of public school populations are not a temporary bubble in the population stream, but rather the emerging future. As mentioned previously, the typical White person in this country is 32 years of age. The American Black is typically 25, the American Hispanic is 22 years of age. It is a rather simple task to determine who will have the most children within the next 15 years. The White population is basically leveling off in terms of women of child-bearing age, while the population of Hispanic women of child-bearing age is increasing dramatically. In addition, Hispanic women have the highest fertility rate of American women, 107 per 1,000 (Schwartz, 1986). A new baby boom will occur, but this time it will be Hispanic (Hodgkinson, 1985a).

Environmental Factors

Many changes have also taken place in terms of the social environment for children born in this country. For every 100 children born today, 12 are born out of wedlock, 40 are born to parents who divorce before the child is 18, 5 are born to parents who separate, 2 are born to parents one of whom will die before the child reaches 18, and 41 reach age 18 having been raised in a "normal" family environment.

Of children born out of wedlock, 50% are born to teenage mothers. Almost unbelievably, very young mothers - 13 and 14 years of age - exist. In fact, every day in America, 40 teenage girls give birth to their third child. In 1979 dollars, each child born to a teenager eventually costs taxpayers $18,710 (Burt, 1986). Teenage mothers tend to give birth to children who are premature, of low birth weight, with a significantly higher incidence of major health problems, and in turn, with dramatically increased likelihood of having major handicaps. This group of high risk children in entering the educational system in rapidly increasing numbers.

Socioeconomic status remains a consistent correlate of school learning and learning problems. The Congressional Budget Office (1974) notes that approximately 22% of the children under 17 years of age live in poverty and that this number is increasing. Given the corresponding increase in the number of minority children of school age, the known disparity in income levels for minorities and Whites, and continued differentiation and representation of minorities in professional and other high-income-earning activities, it can be conclusively projected that the number of poor children in school will dramatically increase in both real and percentage representation, between now and the year 2000.

Droupots

It is difficult to obtain reliable data relative to school dropouts. Schools and other agencies have little motivation to collect such data, because these data provide indirect, if not direct, evidence of the failure of the system to serve segments of its population. Once a youngster disappears, she or he is of little interest to the organization. However, the best data appear to indicate that approximately 14% of White students, 25% of Black students, and more than 40% of Hispanic students drop out. Overall,more than 50% of minority students in large cities drop out (Boyer, 1983). Most dropout statistics are based on cohorts of ninth and tenth graders; however, a recent Texas study of census data indicated that 30% of students drop out prior to the ninth grade (Cardenas & Roblado, 1987). There are fairly significant regional variations in these figures, with some states, such as Minnesota, maintaining better than 88% of their students, while other states, such as Mississippi, maintain barely over 60% of their students. It has been established (Singh, 1986) that school dropouts have the highest rate of children born out of wedlock.

In summary, demographic information indicates that this country's population is growing older and less White. Its children are less secure financially. Public school students are increasingly likely to be minority, and to come from homes where a language other than English is spoken.

IMPLICATIONS FOR SPECIAL EDUCATION

There is a clear difference between the emerging demographic characteristics of this country and the demography of special education as a discipline and in its professional organizations. Special education and its leadership are, at this time, most likely to be White, monolingual, and English-speaking, with special education research, training, and professional development activities generally focused upon areas unrelated to the emerging demographic characteristics of the student population in this country. Issues such as ethnicity, minority status, bilingual education, second language acquisition, nonbiased assessment, socioeconomic status, and so forth are generally perceived by the special education profession as unrelated to special education as a discipline. The configurations of special education and its professional organizations are not greatly incompatible with the past, but are quite discrepant with the emerging future.

Demographic variables suggest the possibility that there will be an expansion of groups eligible for special education services. Some examples of this emerging population would be victims of child abuse, juvenile delinquents, increased numbers of children situationally handicapped due to low socioeconomic status, children handicapped by effects of chemical abuse by their parents, children handicapped by sexually transmitted diseases such as acquired immune deficiency syndrome (AIDS) and herpes, and children both younger and older than the traditional age categories currently served by special education. This expanded group of individuals with problems which inhibit their normal progression in the educational system may cause the system to respond in its historical fashion of "dumping" all children who don't fit the institutional norm into special education. These effects may result in special education continuing the current trend of serving larger and larger numbers of mildly handicapped students.

Other variables such as the cost of special education and the general reduction of resources available in education may, however, precipitate a reaction formation to this expanded population for special education services. Such a reaction formation may cause the pendulum to swing back toward services for the more severely handicapped through a more careful delineation of eligibility criteria, primarily through policy and procedure structuring. This would result in only the defined handicapped individual receiving the unique specialized services of special education.

A number of courses of action appear rather obvious; however, they represent significant and difficult changes to be made within the discipline and the profession. For example, institutions of higher education, as well as others who provide training to special educators, must initiate training programs such as bilingual special education. Such programs exist today in relatively small numbers and with small training capacity. Training programs for regular educators, as well as special education, must begin to include content associated with second language acquisition, English as a second language instruction, bilingual education, cultural and linguistic uniqueness of student populations, and so forth. If they do not, there is less likelihood that appropriate student referral to special education will occur (Garcia & Yates, 1986).

There are other less obvious incompatibilities within the special education discipline and profession. For example, the name "The Council for Exceptional Children" displays some evidence of incompatibility with the demography. That is, in the future, special education will be faced with an increase in the amount of activity and services, research, and so forth, devoted to and related to adults and older citizens. Therefore, the word "Children" as part of the title of the major special education professional organization becomes less appropriate as the U. S. population grows older.

As it becomes more acceptable for the older handicapped individual to receive special education services, special education professional organizations may need to reach out and interface with other nontraditional service agencies for special education, specifically, organizations serving senior citizens. This outreach effort will, of course, create complex linkages and demand for appropriate "boundary spanners" to link the organizations. The identification and development of such boundary spanners will, in itself, call for unique demands on the special education profession.

Currently, parent and advocacy groups are no better prepared or configured than special education for the emerging changes and shifts of demography. There are fewer Whites of child-bearing age, and as the population becomes more linguistically and culturally diverse, special education parent organization and advocacy groups must begin to make systemic adjustments in order to remain visible, viable, and influential. Just as special education has historically been powerful in the formulation of legislation and utilization of the judicial system to accomplish aims and goals for the handicapped, it must now, as a discipline and profession, recognize the growing political power of the Hispanic, the Black, the culturally and linguistically different populations in this country.

Recruitment efforts within special education at the level of preservice, continuing education, and practice must focus on bringing larger numbers of language and ethnic-minority individuals into the profession in order to provide appropriate practitioner/researcher/trainer knowledge, role models, and sufficient manpower to address the clearly changing demography of special education futures.

These efforts to recruit appropriate individuals to serve the emerging ethnic- and language-minority population may call for specific review of areas such as certification or licensing requirements of special educators. In the future it may be appropriate, given the percentage of the population represented by ethnic and language minorities, for all teachers, including special education teachers, to demonstrate competence in bilingual education instructional procedures, or, at a minimum, English as a second language instructional techniques.

Since the majority of educators are, in fact, Anglo, monolingual speakers of English, and the composition of the teaching force will not change as rapidly as the ethnic and language compcsition of the students to be served, there are clear implications for continuing education or inservice training. Specifically, the population of special educators who are currently mostly White, must be provided with appropriate training to produce understanding of the educational and learning implications of cultural, language, ethnicity, and learning style differences in the emerging student population. One need only review the range of typical training agendas provided special educators to recognize that topics ordinarily considered as appropriate in training are, in fact, dramatically different from what is being suggested to prepare the special educator to serve the emerging student population.

In summary, the political, organizational, training, research, and scholarly activities within special education as a discipline and a profession must be alerted and adapted to the powerful and long-term demographic changes occurring in this country.

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Mr. OWENS. Thank you.

Dr. Ewing?

Ms. EWING. Mr. Chairman, Mr. Bartlett is not here—I had hoped that he would certainly have the opportunity for me to greet him also.

I am Norma Ewing, chairperson of the Department of Special Education from Southern Illinois University in Carbondale.

I am pleased to have the opportunity to provide testimony before the Subcommittee on Select Education. I've prepared specific comments relating to the importance of including certain provisions in section 610, Part A, and section 631, Part D, of the reauthorization of the Education of the Handicapped Act.

These provisions are aimed at impacting both directly and indirectly on the education and training of minorities in special education and related services.

As America prepares to enter the 21st century, a perilous gulf widens between minorities and the rest of the Nation. If minority Americans and the rest of the Nation as a whole are to claim a common future, the effort to build that future must be a task pursued with common sense, void of emotional, irrational actions or reactions.

The disproportionate number of minority students in special education is well documented and irrefutable. At the same time, there is a direct inverse relationship between the number of black and Hispanic students in special education and the number of minority teachers and related service personnel produced in our colleges and universities. These facts, too, are well documented and also irrefutable.

Because of this critical dearth of personnel, increased attention must be focused somehow on the support for recruiting and graduating quality minority personnel—that is, teachers, school psychologists, communication and language specialists, and so forth, that are referred to as related service personnel usually.

Certainly a more equitable allocation of resources provided within a creative, sound framework is required to have the impact needed in this critical personnel shortage area. It is important that the Federal Government provides financial support targeted for special education and related service personnel training efforts at historically black colleges and other institutions with a substantive enrollment of minority students, such as institutions in California or Texas with sizeable Hispanic enrollment.

There is a need to institute action that will impact on the continued mislabeling of students, the accelerating dropout rates, and the diminishing number of minority role models in professional fields that shoulder enormous burdens for providing direct services to special education students.

An adequate supply of minority personnel for the Nation's special education youth is essential, particularly in urban areas—and in some rural areas—which are generally characterized by high concentrations of minority youngsters.

In addition to serving as role models, and so forth, minority personnel in predominantly Anglo systems can also foster interracial acceptance and understanding we so dreadfully need in our society today.

According to supply and demand information available through the National Clearinghouse for Professions in Special Education, 10 years ago approximately 12.5 percent of the United States teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised at that time 21.3 percent of the national population and were clearly under-represented then among employed teachers.

All trends indicate that, rather than growing in representation, minority teachers, especially African Americans, have continued to diminish in numbers and as a proportion of all public school teachers.

Though statistics vary slightly depending on the source, there is general consistent projections that by 1990, now, the teaching force will be 3 to 5 percent minority, while clearly one-third of the students in public schools will be minority children.

Minority students and parents are in desperate need of some action that will provide avenue for relief from this continued downward spiral of minority participation in a broad range of matters supported by the Federal Government and directly affects the education of black and Hispanic children in our schools.

Historically, predominantly black colleges and universities have been the largest producers of black teachers. We know that HBCUs have been effective in recruiting minorities, and an important point is succeeding in those training efforts.

From inception, one major mission of Historically Black Colleges and Universities was to train blacks to become teachers. As recent as 1984-1985, Historically Black Colleges and Universities supplied slightly less than half of the black teachers in the Nation.

Hence, it is important that set-aside be provided for HBCUs and other institutions with minority enrollments of at least 25 percent. These institutions have a proven track record for producing minority graduates—not just taking them in and enrolling them, but also producing graduates.

According to Martin, some opponents of financial support for HBCUs maintain they are inferior and make no real contribution to the education of minority youth. Morgan, with whom many agree, believes that HBCUs know how to educate minority students better and Anglo institutions know perhaps how to educate Anglo students best.

Data collected from 1978 to 1988 indicates that Historically Black Colleges and Universities have received extremely limited amounts of the total discretionary funds provided to support training of special education and related service personnel. For example, in 1988, Historically Black Colleges and Universities received 2 percent of the discretionary funds for special education and related services personnel training.

Except for three years during that 10-year period, the percentage of discretionary funds going to Historically Black Colleges and Universities was either 2 percent or 3 percent. One year was 6 percent and two years was 5 percent. This data presents a picture that should convince committee members of the critical problem we face as a Nation related to continued downward spiraling of education and training of minorities in special ed. Unless support is targeted differently than in the past, we are likely to see continuation of the same.

Specifically targeted dollars for Historically Black Colleges and Universities, coupled with appropriate technical assistance, I believe is a likely approach to having a positive impact on this critical national problem we face today.

Relevant data do exist that point to the need to focus on means of infusing more minority personnel in the pipelines that service special ed students.

A report from the American Association of Colleges for Teacher Education Education in 1988 reported that only 7.5 percent of the undergraduate enrollment in Schools, Colleges and Departments of Education is enrolled in special education. Of that 7.5 percent a miniscule percent would be African-American or Hispanic.

The AACTE, in 1988—which is the American Association of Colleges and Teachers and Education—reported that of the total number of schools and colleges and departments of education undergraduates—that is that 7.5 percent—of that total number in special ed, 79 percent of them were white, 11 percent were black, and approximately 8 percent were Hispanic. There is a limited number of minorities studying in special education at the graduate or the undergraduate level that is in predominantly Anglo institutions. That is the reason we need to look at a way to have impact perhaps by providing set-aside to your Historically Black Colleges and Universities because we know they do tend to graduate a larger percentage of those students who are taken in than those minority students who go to Anglo institutions.

I'll give you an example of my own institution. I am from a predominantly Anglo institution—Southern Illinois University of Carbondale as I mentioned earlier. During the period of 1984—1989, which is a five-year period, out of 150 special ed graduates, 7 out of that five-year period were African-American. There were no Hispanics granted degrees in special education during that five-year period.

Data available also in the AACTE document in 1988, it reports the percent of minority special education undergraduates enrolled in the 50 States in your schools and colleges and departments of education. Some examples are: Illinois reflects 12 black, 2 percent Hispanic. In this report, California reflects zero percent black special ed majors and 3.7 percent Hispanic. New York shows 2.3 percent black and 1.4 percent Hispanic.

An increasing number of school administrators call me each semester frantically in search of minority special education teachers and other related service personnel. This is not an exaggeration. There is simply a dearth of such personnel.

I usually chuckle before I respond when they say, do you have any? And I will say, it's like looking for a needle in a haystack; and that is not, indeed, an exaggeration.

It is easy to observe the lack of personnel even as I attend professional meetings. In groups as large as two to 300, I am most often one of two or three minorities in attendance. They are just not there.

According to Gentry and Wen in 1988, the concern over minority teachers is of such magnitude that two reports—A Nation Prepared: Teachers for the 21st Century (the Carnegie Forum on Education and Economy in 1986), and Tomorrow's Teachers (the Holmes Group, 1986) made it a central theme. The Carnegie Forum report called for a policy to mobilize the Nation's resources, to prepare minorities for teaching careers. Two relevant major points emphasized were: (1) recruiting minorities into teaching, and (2) financially assisting predominantly black institutions of higher education to prepare students. The Holmes Group report emphasized that high-risk children need teachers who can capitalize on the social context of the environment as they go about the business of teaching and learning.

Historically Black Colleges and Universities continue to address the needs of the minority community and the Nation. The role and significance of Historically Black Colleges and Universities has not diminished in more than 150 years of their existence. There is a definite need to support and expand the efforts of predominantly minority institutions to prepare teachers and other related service personnel.

These personnel could provide invaluable service in various roles and have dramatic impact on the education and training efforts and opportunities for a vast number of minority special education students at preschool, elementary, as well as secondary levels.

Without definite, planned efforts to stimulate growth in the number of minorities trained to provide services for minority students with disabilities, the Nation is likely to continue to experience an accelerating shortfall of special education and related services personnel for the public schools; to serve on panels that select Federal grant awards for IHEs, SEAs, other agencies and other organizations; to serve on advisory boards; to participate in research relevant to the teaching and learning, particularly of minority students.

If the Federal Government fails to initiate immediate, specific steps to impact on this critically known problem, the Nation is likely to pay the price in intolerable ways later; for example, growth in social ills that eat away at the fabric of America and weaken the structure of our society.

Thank you for this opportunity.

[The prepared statement of Dr. Norma J. Ewing follows:]

Testimony for Hearing on
Section 610 in Part A and Section 631
in Part D of the Reauthorization
# of the Education of the Handicapped Act (EHA)

by

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for the
Subcommittee on Education and Labor
U.S. House of Representatives

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HOUSE EDUCATION AND LABOR
SUBCOMMITTEE TESTIMONY
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I am pleased to have the opportunity to provide testimony before the Subcommittee on Education and Labor. I've prepared comments relating to the importance of including certain provisions in Section 610 in Part A and Section 631 in Part D of the reauthorization of The Education of The Education of the Handicapped Act (EHA), as put forth by the majority members of the Committee. These provisions are aimed at impacting both directly and indirectly on the education and training of minorities in special education and related services. (Note: In this presentation the words Black and African-American will be used interchangable. So will the words Anglo and White.)

As America prepares to enter the 21st century, a perilous gulf widens between minorities and the rest of America. If minority Americans and the rest of the nation as a whole are to claim a common future, the effort to build that future must be a task pursued with common sense, void of emotional, irrational actions or reactions.

The disproportionate number of minority students in special education is well documented and irrefutable (Dunn, 1968; Mercer, 1973; Chinn, 1987). There is a direct inverse relationship between the number of Black and Hispanic students in special education and the number of minority teachers and related service personnel produced in our colleges and universities. Because of this critical dearth of personnel, increased attention must be focused on support for recruiting and graduating quality minority personnel (e.g. teachers, school psychologists, communication and language specialists, etc.).. Certainly a more equitable allocation of resources provided within a creative, sound framework is required to have the impact needed in this critical personnel shortage area. It is important that the Federal Government provide financial support targeted for special education and related service personnel training efforts at Historically Black Colleges and Universities (HBCUs) and other institutions with a substantative enrollment of minority students (e.g. institutions in Calif. with sizeable Hispanic enrollment). There is a need to institute action that will impact on the continued mislabeling of students, accelerating dropout rates, and the diminishing number of minority role models in professional fields that shoulder enormous burdens for providing direct services to special education students. An adequate supply of minority personnel for the nation's special education youth is essential, particularily in urban systems (and some rural areas) which are generally characterized by high concentrations of minority youngsters. In addition to serving as role models, etc. minority personnel in predominately Anglo systems can also foster interracial acceptance and understanding we need in our nation today.

According to supply and demand information available through the National Clearinghouse for Professions in Special Education, ten years ago 12.5 percent of the U.S. teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised 21.3 percent of the national population at that time and were clearly underrepresented then among employed teachers. All trends indicate that, rather than growing in representation, minority teachers, especially African-Americans, have continued to diminish in number and as a proportion of all public school teachers. Though statistics vary slightly depending on the source, there is general consistent projections that by 1990 the teaching force will be 3 to 5 percent minority, while one-third of the students in public schools will be minority children. Minority students and parents are in desperate need of action that will provide an avenue for relief from the continuous downward spiral of minority participation in a broad range of matters supported by the Federal Government that directly affects the Black and Hispanic children in our schools.

Historically, predominantly Black Colleges and Universities (HBCUs) have been the largest producers of Black teachers. We know that HBCUs have been effective in recruiting minorities and succeeding in training efforts. From inception (more than a century) one major mission of Historically Black Colleges and Universities was to train Blacks to become teachers. As recent as 1984-85 HBCUs supplied slightly less than half of the Black teachers in the nation (Rambert, 1989). Hence, it is important that set-aside funds be provided for HBCUs and other institutions with minority enrollment of at least 25 percent. These institutions have a proven track record for producing minority graduates. According to Martin (1984) some opponents of financial support for HBCUs maintain they are inferior and make no real contribution to the education of minority youth. Morgan (1990), with whom many agree, believes HBCUs know how to educate minority students better and Anglo institutions know how to educate Anglo students best.

Data collected from 1978-88 indicates that Historically Black Colleges and Universites (HBUCs) have received extremely limited amounts of the total discretionary funds provided to support training of special education and related personnel. For example, in 1988 HBCUs received only 2 percent of the discretionary funds for special education and related services personnel training. Except for three years during the '78-88 time period the percentage of funds going to HBCUs was either 2 or 3 percent. One year there was 6 percent and two years there was five percent. This data presents a picture that should convince Committee members of the critical problem we face as a nation related to probable continued downward spiraling of education and training of minorities in special education, unless support is targeted differently than in the past. Specifically targeted dollars for HBCUs, coupled with appropriate technical assistance, is an approach likely to impact positively on the existing national problem.

Relevant data does exist that point to the need to focus on means of infusing more minority personnel in the pipelines that service special education students. A report from the American Association of Colleges for Teacher Education (AACTE) (1988) reported that only 7.5 percent of the undergraduate education enrollment in Schools, Colleges and Departments of Education (SCDE) is enrolled in special education. Of that 7.5 percent a miniscule percent would be African-American or Hispanic. AACTE (1988) also reported that of the total number of SCDE undergraduates enrolled in special education 78.8 percent were White, 11.2 were Black, and 7.7 percent were Hispanic. There is a limited number of minorities studying in special education (at the graduate or undergraduate levels) in predominately Anglo institutions. As an example, in my own institution (Southern Illinois University-Carbondale), during the period of 1984-89 a total of 7 out of 150 (.05 percent) special education graduates with a bachelors degree were African-American. There were no Hispanic graduates. Data available in the AACTE document (1988) reports the percent of minority special education undergraduate enrollments (SCDE)in the fifty states. Some examples are as follows: Illinois reflects 12.4 percent Black and 2.7 percent Hispanic; California reflects 0 percent Black and 3.7 percent Hispanic; New York shows 2.3 percent Black and 1.4 percent Hispanic. An increasing number of school administrators frantically call, in search of minority special education teachers. There is simply a dearth of such personnel. It is easy to observe the lack of personnel, as I attend professional meetings, in groups as large as 200-300, I'm most often one of two or three minorities.

According to Gentry and Wen (1988) the concern over minority teachers is of such magnitude that two reports--A Nation Prepared: Teachers for the 21st Century (Carnegie Forum on Education and Economy, 1986) and Tomorrow's Teachers (Holmes Group, 1986)--made it a central issue. The Carnegie Forum report called for a policy to mobilize the nation's resources to prepare minorities for teaching careers. Two relevant major points emphasized were (1) recruiting minorities into teaching, and (2) financially assisting predominately Black institutions of higher education to prepare students. The Holmes Group report emphasized that "high-risk" children need teachers who can capitalize on the social context of the environment.

Historically Black Colleges and Universities continue to address the needs of the minority community and the nation. The role and significance of HBCUs has not diminished in the more than 150 years of their existence (Rambert, 1989).

There is a need to support and expand the efforts of prodominantly minority institutions to prepare teachers (Quality Education For Minorities Project, 1990) and other related service personnel. These personnel could provide invaluable service in various roles and have dramatic impact on the education and training efforts and opportunities for a vast number of special education students at preschool, elementary, and secondary levels.

Without definite, planned efforts to stimulate growth in the number of minorities trained to provide services for minority students with disabilities, the nation is likely to continue to experience an accelerating shortfall of special education and related services personnel for the public schools; to serve on panels that select federal grant awards for IHEs, SEAs, agencies, organizations; to serve on advisory boards; to participate in research; etc. If the Federal Government fails to initiate immediate, specifics steps to impact on the existing problem, the nation is likely to pay the price in intolerable ways (e.g. growth in social ills that eat away at the fabric of America and weaken the structure of our advanced technological society).

Mr. **OWENS**. Thank you very much.

Our final testimony will be in the form of a video tape. Ms. Georgia McMurray will introduce herself on the tape, but I noticed that she was quite modest in the process of introducing herself.

Ms. McMurray is a former colleague of mine when I served as a Commissioner in the New York City government. She was also a Commissioner of the Agency for Child Development. She had been a member of a task force which put together the proposal to put all of New York City's child care programs under one agency—the Day Care Center programs, the Family Day Care programs, the Headstart programs, the Early Childhood programs, in private settings.

After serving as the chairperson of that task force, by popular pressure she was made the Commissioner of the Agency for Child Development. So she could be called the founder of the Agency for Child Development.

After leaving there she became the Deputy Director of the Community Service Society, one of the largest and most well endowed private social agencies in the city; and she will also tell more about what she has been doing since then.

[Video presentation of Georgia McMurray.]

[The prepared statement of Georgia McMurray follows:]

TESTIMONY PRESENTED BEFORE THE
SUBCOMMITTEE ON SELECT EDUCATION
HOUSE COMMITTEE ON EDUCATION AND LABOR
ON H.R. 1013
BY
GEORGIA L. MCMURRAY CSW
ON
FEBRUARY 20, 1990

My name is Georgia McMurray and I am pleased to accept the invitation of your chair, Congressman Major Owens, to testify today before the Subcommittee on Select Education, House Committee on Education and Labor. I have known Cong. Owens for many years and was a colleague of his in New York City government during the Lindsay administration.

In the 1970s, Cong. Owens embarked on a legislative career, first in the New York State Senate and now the U.S. House of Representatives where he serves with distinction. He is rightly to be praised for his leadership in articulating the interests of children and youth with disabilities, particularly those of African American or Latino background or from other disadvantaged populations.

H.R. 1013, particularly the amendments proposed by the chair and now before this subcommittee, (Section 610 in Part A and Section 631 Part D), forthrightly address the needs of these individuals, stressing the responsibility of the federal government to guarantee access to services for the disabled now or potentially available, and to assure accountability for these through planning, monitoring, and evaluation and by more stringent requirements on the states. Most important, the amendments stress the need for increased minority involvement, both parents and professionals, in the planning and delivery of services.

My interest in the proposed amendments to the Education of the Handicapped is multi-fold: I am a professionally-trained social worker with twenty-five years' experience in children and family services as a clinician, an administrator, and as a policy analyst. Recently, I was appointed a distinguished professor at Fordham University Graduate School of Social Service in New York City where I teach social policy. And I own and manage a research and training firm which bears my name.

I am an African American, a woman, and am totally paralyzed, the result of a progressive neuromuscular disease called Charcot-Marie-Tooth, which causes me to be ventilator-dependent and in need of 24 hour care. I have devoted much of my professional life advocating for enlightened social policies to aid children, women, families, minority groups, and the disabled. It is from these many and varied experiences, professional and personal, that I appear before this subcommittee today as an expert witness.

There should be no doubt, given the mounting evidence, that disabling conditions, physical, mental, and emotional, are overly-represented in minority group populations. By some estimates, these groups represent almost one-third of people with disabilities. Yet, it is clear that they are underrepresented in service delivery systems as providers, as professional staff, and as consumers.

A 1985 report issued by the New York State Office of Mental Retardation and Developmental Disabilities (OMRDD) indicates that, although minorities constituted 25.12 percent of New York State's population, according to the 1980 Census, they were vastly underserved. Projecting population and other data, the State agency surmised that, of the 56,900 minority persons developmentally disabled in New York, only 10,071.3 were actually receiving services. In New York City, where two-thirds of New York State's African Americans reside, OMRDD estimated that 50.2 percent of African American developmentally disabled persons were not getting help. For Hispanics, the comparable percentage was 74.7.

The reasons for such large numbers of underserved minority disabled vary, some open for speculation. But certainly, the harsh poverty, lack of adequate health care, especially during pregnancy,

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Beyond the Barriers: A Multi-Ethnic Perspective to Address Solutions to Service Delivery Problems in New York State for Minority Persons with Developmental Disabilities and Their Families, New York State Office of Mental Retardation and Developmental Disabilities, 1985.

overcrowded and dilapidated housing, and poor nutrition are all major contributors to disabilities among people of color. Tragically too are such lifestyle issues as drugs and other substance abuse and AIDS. And there is the violence on our cities' streets.

But whatever the reason, disability compounds the already poor life circumstances of most African Americans, Latinos and others, many of whom have not acquired sufficient schooling, much less adequate vocational skills to enable them to lead independent lives. I can sit here before you as an advocate because my parents assured through patience and forbearance that I acquire the education needed to maintain my independence despite a crippling disease.

Speaking recently to Marilyn Saviola, executive director of the Center for Independence of the Disabled Of New York (C.I.D.N.Y.), a publicly-funded service, I gathered again that minority disabled people experience almost insurmountable difficulty in utilizing services to facilitate rehabilitation because of education and job deficiencies.

The amendments proposed in H.R. seek to address these issues. Some may ask why such legislative intervention is necessary. Let me recount my own experience these past few years to provide some perspective on the issue.

In late 1986, I was hospitalized because of respiratory failure and, after several weeks in intensive care, I was transferred to Goldwater Memorial Hospital, a City-run facility for long-term rehabilitation. While there, I was struck by the overwhelming presence of young people, mostly male, all minority, languishing in the corridors. Later on, I discovered that their disabilities were mostly the result of violent acts--gunshots, car accidents.

Yes, these young men, around twenty-five in number, received some counselling and other services but they were hardly sufficient to meet their needs and the young patients were disdainful of them. Moreover, they described their hospitalization as imprisonment because of the restrictions on their activities, the inadequate food, and the insensitivity of staff. As a professional social worker, I understood their concerns and was soon instrumental in organizing a self-advocacy group composed of these young people.

After preparing a report of express grievances, we met with top hospital staff who were openly hostile, referring to us as "quads", and stating that the young patients were "different" from those years ago (mostly white then) and so expectations for rehabilitation for current patients were not as high. One staff person, a physician, suggested that life on public assistance once discharged would be a viable option.

It should be noted that these minority males should not be deemed poor candidates for rehabilitation. Most had completed high school and two had at least three years' college education. Yet, the vocational rehabilitation counsellor had made no effort to refer them to the State Office of Vocational Rehabilitation. To make matters worse, the staff became increasingly hostile to me. I was provided little help in discharge. That I was able to exercise control over my own stay at Goldwater resulted from my own professional training and perseverance. That I am here today as a professor and business owner attests to my education and job experiences.

Young adults were not the only persons victimized. Goldwater had a hospital school, and, in disregard to applicable public law, little effort was made to secure placement for the students, many of whom called Goldwater home. The teacher assigned felt that public school would be too harrowing and so resisted change. Again, it was only after sustained advocacy, that two children were transferred.

Why is recounting these incidents necessary? Well, I submit because they are not the exception. They are the norm! Minority disabled children and adults experience discrimination and hostility from professionals and providers most of their lives.

Many parents are told while their children are still toddlers that their children will grow out of the developmental lags clinically diagnosed. Just ask any minority parent with a disabled child! Last year, I attended a conference convened by OMRDD on the needs of the minority disabled. Parent after parent stated with frustration and sometimes with anger and tears, how they had been shunted aside, given misinformation, and received only a modicum of help from service systems--health care, social services, education. They expressed their helplessness in eloquent terms.

But this conference was only a blur on the bureaucratic map. No follow up occurred despite the organizers' intentions. More darkly, no providers of services attended except for one who sent its minority staff. Which leads to a fundamental concern raised by the amendments: The lack of minority group participation in the delivery of services to disabled persons, and in the planning, development, and evaluation of these services.

Take New York City and State for example. Despite the disproportionate numbers of minorities among the disabled and growing, there ARE NO PROVIDER AGENCIES WHICH MINORITIES EXPRESSLY CONTROL! Moreover, these agencies, even special schools, are usually located outside of communities with predominantly minority populations. The geographical inaccessibility, the lack of staff sensitive to cultural diversity, the resistance to using community-based resources constitute MAJOR BARRIERS TO SERVICES for minority children and youth with disabilities.

A February 1990 report by the Mental Health Law Project on the progress of state planning on early intervention states that, in eleven states studied, no training was taking place around cultural diversity. Nor was using existing community resources being utilized.

Many reasons exist for the exclusion of minority providers in service systems. First of all, information about participation and technical assistance are hardly available. Then too, start up costs are beyond the reach of most, almost $500,000. by some estimates in New York State. The preference of a medical model in delivering services to the disabled and the over-reliance of government-funding agencies on traditional nonprofit agencies cannot be discounted as well.

Multi-year funding with hands-on technical assistance to assure quality services and management capability are surely needed if minority providers are to be incorporated in the delivery of services. But most critical is the availability of stable funding and a policy thrust towards comprehensive, integrated services built on goals for independence.

The proposed amendments address these and other strategies to promote self-sufficiency of minority disabled individuals. It should be clear that calls for training increased numbers of staff, not only special education teachers, but also, physical therapists, occupational therapists, rehabilitation counsellors, assume that a diverse staff and provider system which will better assist the populations of concern with dignity and sensitivity.

In addition, legislative mandates for setting up transition services for youth; for promoting self-advocacy for youth; for assuring minority students have priority for fellowships; for stressing preservice training which can create career paths for paraprofessionals may each have a highly significant impact on the quality of services. So will assurances that services are owned and managed by minority providers as a matter of equity.

In summary, the needs of minority disabled children and youth are as any other but complicated by the impoverishment many of them will experience throughout their lives because of continuing inequities in planning and delivering services. To deal with these, certain priorities are called for:

A. Improved needs assessment
B. Community integrated services
C. Improved access and appropriate placement
D. Mandated parent involvement
E. Sensitivity of staff
F. Increased minority providers

To a marked extent, the amendments set forth in H.R. 1013 address these concerns. Cong. Owens and this subcommittee are to be commended for the insight each bring to the needs of minority disabled today. If you wish any additional information on the issues raised in my testimony, I shall be more than willing to provide. Thank you.

Mr. **Owens**. Let the record show that the written testimony runs parallel to the oral testimony, which has been provided, and the written testimony has been provided to all members of the committee.

The members of the committee are welcome to submit questions which Ms. McMurray would answer in writing.

I want to thank the members of the panel and say that you have brought some very useful additional information.

Dr. Ewing, earlier you shared more detailed information on grant distribution—we would appreciate any additional information or statistics that you may have for the record. It will be useful as we attempt to establish a database from which we can all work.

Dr. Yates, I want to thank you for giving me a figure that I've been trying to chase down for the last three or four years. Sixty percent of New York students do not complete high school?

Please submit the documentation for that one later so I can use it. I've been trying and trying to get this figure for quite a time, and the longer I tried, the smaller the figure gets—you know, it becomes more and more political the more I seek it. I've been told that the dropout rate for New York City is less than 30 percent. I'd be interested in knowing where your 60 percent comes from.

Mr. **Yates**. I'd be glad to share that.

[The information follows:]

COLLEGE OF EDUCATION
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MAY - 4 1990

April 27, 1990

Congressman Major R. Owens
114 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Owens:

At the time I provided testimony before your House Subcommittee I mentioned a statistic associated with the New York City dropout rate. You asked if I could supply you with that particular reference. The information that I suggested relative to the New York City dropout rate was obtained from:

> McCoy, Frank. "Standing on Shaky Ground." Black Enterprise. January, 1990. Vol. 20 (6), 55-60.

I hope this reference is useful to you in your efforts to develop the best of educational opportunities for all youth in this country.

Sincerely,

James R. Yates
Chairman and Professor

JRY/ap

Mr. OWENS. Your other statistics and information on demographics are quite impressive.

I think we all agree we have a problem; we have a major problem in terms of lack of representation in this area by minority providers. But the teachers is a critical problem. It's pertinent to this bill because the biggest piece of this bill—the most important piece, I think, is the money for the development of teachers.

How would you operate in an institution like the University of Texas to get a better response to the problem?

You pointed out the fact that a big institution like the University of Texas has more resources and more of everything. And yet, the job has not been done, and the concern is not there.

How do we move to deal with the problem? What would you suggest?

Mr. YATES. I think there are two things that I might mention. One is an effort that we are initiating at this time, which is to recognize that the ability to handle successfully the recruitment and training issues for minority teachers and other professional education personnel is also related to the representation on college faculty of minority. So we have initiated, with some other institutions in the southwest, an effort, you might say, to grow our own, which we are agreeing to participate among ourselves to identify promising students and see if we can in fact provide inducements to bring them into the professorship before they leave for other perhaps more lucrative and/or other opportunities.

So we are looking for mechanisms to bring people that are all but finished, or just finishing, their degrees into the mainstream with a kind of commitment of position for them in that process.

The second thing that I would mention that has some potential, I think, and this really reflects the base of my remarks about concern about set-asides for historically ethnically identified institutions, and that is I believe that if that approach is taken we need to recognize that probably single-approach policies aren't adequate unless you also incorporate with them significant kinds of development efforts to enhance and improve the ability of those institutions themselves.

So I would say in that regard that the capabilities to do the kind of research and so forth is difficult at this time. Let me give one specific example. One particular faculty member from our institution was asked to serve on two specific dissertation committees of a historically minority-identified institution in the State of Texas that does have the authorization to award the doctorate degree in one program area—the only degree that they offer in that particular institution at the doctorate level is in bilingual education.

In that particular instance, because of the limited resources at that institution, the limited ability to complete the research that was being suggested for those students, this particular faculty member did not choose to remain as a member of committees because of the ability to not successfully complete the research that the student was proposing.

So I think that there has to be development of capacity, and perhaps that's another approach that is the appropriate one, but I am very concerned and hesitant to provide a mechanism in law by set-asides that might release institutions such as mine from any sense of feeling of obligation to address this very important issue.

Mr. **Owens**. So you would recommend that we develop a mechanism to make an institution like yours more accountable?

Mr. **Yates**. Definitely.

Mr. **Owens**. That does not rule out set-asides as being a part of a total bill. We could do something else for majority institutions that have resources and are not showing any great propensity for reaching out. It's the old argument of which comes first, the chicken or the egg. Of course, if the minority institutions have never had the resources, they, will be locked into never being able to qualify.

So, in the context of a very small bill like this, we would like to do what we can to push the process along. The absence of having some kind of incentives, or prods, threats—whatever you want to call it—the absence has resulted in a calamity and we would like to do what we can.

What we are proposing is not so radical. Dr. Ewing, I think your statistics show that Historically Black Colleges and Universities are now getting 5 to 7 percent of the grants. Ten percent is not a great leap forward; it's not radical.

Ms. **Ewing**. Absolutely.

Mr. **Owens**. If we want to have a real impact we should really be going beyond 10 percent?

Ms. **Ewing**. I would certainly say that we could look at that. A beginning would be with 10 percent—that we are just going to barely scratch the surface there.

A point that I want to make that I think we haven't brought up clearly today is of the approximately million black students that are attending college now, only about 16 percent of those are at Historically Black Colleges and Universities; that at the very same time, a third of our black graduates come from within that 16 percent, which says that something is going on by historically black institutions that is very positive in terms of producing the resources that we are going to need.

So if we don't take a bold step forward and infuse something in the system that is having success—abcut 80 percent of them do go to non-historically black colleges, but they do but they do not graduate. And we're talking about producing graduates that impact on the system. So let's look at the resource then that is having positive impact in terms of graduating a good percentage of these persons.

Mr. **Owens**. I want to thank both of you for your testimony and for your long wait for the opportunity.

Thank you very much.

Ms. **Ewing**. Thank you.

Mr. **Owens**. The hearing is now adjourned.

[Whereupon, at 1:25 p.m. the subcommittee was adjourned.]

[Additional material submitted for the record follows.]

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CHAIRMAN
SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES
SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION
SUBCOMMITTEE ON SELECT EDUCATION

STATEMENT FOR HEARING
ON REAUTHORIZATION OF E.H.A. DISCRETIONARY PROGRAMS
SUBCOMMITTEE ON SELECT EDUCATION
FEBRUARY 19, 1990

BY

HONORABLE MATTHEW G. MARTINEZ
MEMBER OF CONGRESS

Mr. Chairman, the Education of the Handicapped Act has worked a revolution for educational reform. It has done miracles in assuring that ALL children receive a education.

As important as it is, it is only a start. There are two high priority problem areas that must be dealt with to protect and strengthen this program. The legislation before us today begins to deal with these problems.

The first is the serious overrepresentation of minority students who are assigned to special education. Poverty and not speaking English as a first language are major challenges in our classrooms--but they are not disabilities in the sense intended by the Education of the Handicapped Act. The wild differences in student assignment among categories of disability across states and localities, as well as the heavy overrepresentation of Hispanics and other minorities in mildly disabled categories suggest that this program is sometimes being used as a dumping ground for normal students who need help. This stigmatizes those students, fails to give them the help they need, and costs the taxpayer a bundle. The minority initiative in this measure begins to address that problem by increasing the number of minority special education instructors and researchers. I strongly support a minority initiative and I look forward to working with other members of this Committee next Congress when we will take a closer look at the process of reference and assessment and early intervention and coordination with other programs such as Chapter I and Bilingual Education. Changes in these areas are vital if we are to end this abuse of misplacing students.

Secondly, we need to look at what happens to the individuals when they leave the program. In the 99th Congress I worked with the other members of the Committee to establish an early intervention program to detect disabilities early and to act to correct them. Although these provisions are just beginning to come on stream, they are a major improvement.

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However, when we look at what happens to individuals who leave this program it is clear that we have big trouble--trouble not only for the individuals but trouble that threatens to undermine the credibility and support of Congress and the American people for special education.

What happens to individuals who enter special education? All too often the answer is that they drop out of the program--and often those who complete it find that they can't get a job or lead an adult life.

It doesn't have to be this way. The bill before us takes steps, including strengthening ties between vocational rehabilitation programs and special education to improve transition. Unfortunately, experience suggests that that is not enough.

Some local programs and some states are focusing on 'what works' rather than on program turf. The state of Texas has mandated individual transition programs as of September 1990. Japan has initiated a schools follow-up survey based on California research. We are doing some very exciting things in California. California has a program called "WorkAbility" established in 1981. It focuses on paid, off-campus work experience, vocational training and job placment. WorkAbility is state-sponsored, supported by a mix of state and federal funds, backed by specific federal/state legislation and a competitive application process. It serves all handicapping conditions. It models interdisciplinary and interagency managment. Like the California "2+2" program (and the "Tech-Prep" program in the pending reauthorization of the vocational education act) it builds strong bridges between high school and postsecondary education and training. It provides a model of an alternative to the narrow approach in the current draft legislation. It is a successful funding mixture of local control, state guidelines, peer advocacy, interagency/interdisciplinary flexibility and positive results for students.

There are some very interesting results. The most important is that these kids find paid jobs and many continue in postsecondary education. The program is located in 89% of California secondary school districts. Handicapping composition and racial/ethnic composition within the program matches the disability composition in state classrooms. This ability to link business-partnerships, community colleges, JTPA and other programs is paying off for students and for the community. It gives people work experience and the basis for a meaningful adult life and employment. 78% of all WorkAbility jobs are in the private sector (and nearly one third of the student trainees were hired by the employer). Only 25% of the WorkAbility students worked in fast foods or in restaurants. On-the-job training by WorkAbility staff is the instructional service most highly correlated with student employment. The program works in part because it mobilizes wider pools of resources and wider networks for training and placement. The majority of student wages came from non-WorkAbility funds. 42% of the student wages were from the private sector. ONLY 3% of WORKABILITY I STUDENTS RECEIVED SERVICES FROM THE DEPARTMENT OF REHABILITATION. Contrary to national research, WorkAbility and work experience education greatly increased (80%) of students planhning to continue into postsecondary educaiton and to finish high school. Paid work experience is the strongest correlate to successful employment of WorkAbility Students. We will have a witness here tomorrow who will present testimony on this program.

"WorkAbility" is a useful model because it is flexible and because it works. All of our state-sponsored transition programs have a mandated Individual Transition Plan and student/graduate follow-up component. They all have a local interagency component.

Federal support is needed. While California's Workability programs include 20,000 secondary high school students in California's public and private special education programs, this represents only 20% of the total high school special education students in our state. The growth of these programs has been slowed by lack of funding and lack of a Federal initiative. The fragmentary state sponsored programs have done what they can. For the rest of the world to incorporate quality transition components, they will have to see it in writing.

I will work closely with my colleagues for a transition program that is more flexible and innovative--and in the reauthorization of the other sections of the EHA next Congress I will work with my colleagues for a strong transition program, with effective monitoring and evaluation. Thank you.

nci

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Corporate Advisory Council

February 15, 1990

Ms Wanser R. Green
Subcommittee On Select Education
Committee On Education and Labor
U.S. House of Representatives
518 Annex One
Washington, D.C. 20515

Dear Ms Green:

On behalf of the National Captioning Institute I am pleased to submit written comments in response to the draft House bill to reauthorize Parts C-G to Part F and Part G of the Education of the Handicapped Act (EHA).

NCI is gratified that subparagraphs (A) and (B) have been modified through the addition of the phrase "television programs" to the language. However, we believe that complementary language should also be included in Section 602, as follows:

- In the heading for the section, ",Television," should be added after "Captioned Films." This would be consistent with language adopted by the Senate in S 1824 on November 16, 1989.
- In subsection (b), the addition of the words "television programs" to paragraph 3 would create a consistency with the changes made in subparagraphs (A) and (B). It would also clearly define the Secretary's authorization to specifically provide for the captioning of television, in addition to "video" materials, which are not often considered to be broadcast or cablecast programming.

In addition, NCI recommends that consideration be given to language which would authorize the Secretary to provide, by grant or contract, for the production and distribution of Line 21 closed caption decoders. Although not funded in FY90, this activity has been the subject of four grant awards by the Department since 1986. As a result of these programs, many thousands of hearing-impaired persons who would not have otherwise been able to afford the cost of a decoder are now benefitting from the captioning service. Authorization language acknowledging the role of the Department in these and similar projects would permit future appropriations of these activities, should priorities call for them. This could be accomplished by adding a new paragraph (9): "provide, by grant or contract, for the production and distribution of Line 21 closed caption decoders."

Thank you for this opportunity to participate in the reauthorization process.

Sincerely,

JOHN E.D. BALL
President

cc: Patricia Laird
Sally Lovejoy

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TESTIMONY PRESENTED FOR THE
SUBCOMMITTEE ON SELECT EDUCATION
OF THE
COMMITTEE ON EDUCATION AND LABOR
UNITED STATES HOUSE OF REPRESENTATIVES

BY

WILLIE A. BRAGG, PH.D.

COORDINATOR, SPECIAL EDUCATION

VIRGINIA UNION UNIVERSITY

RICHMOND, VIRGINIA

My name is Willie Bragg. I am the Coordinator of the Special Education Program at Virginia Union University, a historically black institution, located in Richmond, Virginia. I appreciate the opportunity to provide testimony for the Subcommittee on Select Education, U. S. House Committee on Education and Labor. In my current position, I am involved with issues regarding the training of minority special education personnel. The testimony presented in this document represents my personal experiences as an African-American woman working at another historically black college; namely, Bethune-Cookman College.

Bethune-Cookman College is located in Daytona Beach, Florida. Founded by one of America's outstanding black women, Dr. Mary McLeod Bethune, the college emphasizes a liberal arts tradition, and enrolls approximately 2,000 students, with 98 percent African American. 48 percent of the 107 full-time faculty are also African American. As Director of the Teacher Education Institute, one of my primary responsibilities was to identify funding sources for the college. Thus, the Teacher Education Institute was established to enhance the goals of the college in the areas of recruitment and admissions, and retention and preparation of minority students interested in obtaining degrees in teacher education. In addition, the Institute supported the objectives of the Education Division in the areas of personnel training, research, and accreditation. With these objectives in mind, I began to explore funding opportunities for several reasons. First, Florida had designated minority teachers as a critical shortage, and outlined initiatives to address the drastic decrease of students choosing education as a teaching career.

Second, critical teacher shortages were also designated in special education. According to the 1987 report of the Education Standards Commission, 20% of Florida's public school teachers are minority, with 16% African American and 4% Hispanic. Further, it was predicted that by the year 2000, Florida school population would be 50% minority. However, Florida is producing minority teachers at the rate of 5 to 8 percent of the total pool of newly trained teachers. These projections paralleled national trends. It is estimated that African Americans will constitute 5 percent of the teaching profession, while urban school enrollments of minority children and youth will comprise 40 percent of the school-age population. If predictions are accurate, black students will see few, if any, role models in public schools.

Personnel preparation programs at Historically Black Colleges and Universities (HBCU's) have enabled communities to more effectively serve minority children and youth by providing a pool of competent black teachers. At least half of the nation's minority teachers have, historically, been produced by black colleges (Rambert, 1989; Garibaldi, 1989). These teachers serve as mentors to students in dire need of cultural validation and academic encouragement. It is evident that the number of minority students served in our schools is on the rise. They are entitled to see themselves reflected in their school's instructional workforces. Given the current funding climate, this occurrence is increasingly unlikely.

The documented decline in the number of minority teachers, coupled with an absence of funding traditionally sought by HBCU's, forecast even more shortages of minority special educators. African-Americans account for only 11.2% of the total number of undergraduates enrolled in special education (American Association of Colleges for Teacher Education Report, 1988).

The efforts to increase the number of minority special education teachers and related personnel, while improving the quality of the teaching profession, is a problem confronting all institutions of higher education. Given the financial constraints confronting my institution, I was compelled to seek external resources to support and strengthen recruitment and retention efforts, restructure course offerings, and develop a data base for our teacher education programs. I planned a trip to meet with agency personnel at the U. S. Department of Education in July, 1988. My intent was to identify funding sources for our personnel preparation program. I was aware of a minority preference in Section 318.4 of the Federal regulations (subsection (b) (6)) for the preparation of personnel to educate minority or underserved children with disabilities. I represented an institution that was qualified to receive funds legislated for our needs. Unfortunately, this preferences was repealed, disabling our efforts to enhance minority teacher training. Several meetings with agency personnel yielded disappointing results: 1) HBCU's had received limited amounts of discretionary funds to assist in training special education personnel, and 2) no set-aside funds were targeted for HBCU's.

The information I have shared with the subcommittee reflects my personal perspective, though I feel it is representative of many educators' experiences at HBCU's. To continue adequate preparation of minority special education personnel, the Federal Government's commitment to HBCU's is vital.

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March 8, 1990

The Honorable Major Owens, Chairman
House Subcommittee on Select Education
House Annex I
Suite 518
Washington, D.C. 20515

Dear Congressman Owens:

On behalf of the National Council on Disability, I am pleased to provide comments on the proposed amendments to H.R. 1013, the Education of the Handicapped Amendments Act of 1990. As you are aware, the National Council has been deeply concerned about the education of students with disabilities for some time. In September, 1990, the National Council published a report entitled, The Education of Students with Disabilities: Where do We Stand? This report is the result of a year-long study conducted by the National Council and funded by the Congress. During this study, the National Council held four days of hearings and heard from over 50 witnesses concerning the educational needs of students with disabilities. The majority of the comments which I will provide to you on H.R. 1013 will be based upon the findings included in this report.

First, we would like to commend the Subcommittee for placing an emphasis on the needs minority students with disabilities. Findings in the report confirm the need for this emphasis:

> Several trends have emerged in recent years that indicate the need for a focus on minority students with disabilities. These trends include:
>
> 1) an increase in the number of minority students attending school;
> 2) the persistence of poverty in minority communities;
> 3) the vulnerability of minority children to developing disabilities early in life; and
> 4) the over representation of minority students in special education classes. (National Information Center for Children and Youth with Handicaps, 1987).

In recent years the National Council has become extremely concerned about the needs of Native Americans with disabilities, including those children who require special education and related services. We think the provisions of this legislation requiring outreach to minority families with disabled children and providing technical assistance to institutions with significant minority representation will certainly benefit those children who need the services provided by the Education of the Handicapped Act.

We are also pleased that the proposed amendments to H.R. 1013 have incorporated the terms "assistive technology devices" and "assistive technology services" which appear in P.L. 100-407, the **Technology Related Assistance for Individuals with Disabilities Act**. Clearly, the use of assistive technology has the power to transform the learning capabilities of many students with disabilities. In fact, the National Council is enthusiastic about a study which we will be conducting this year regarding the financing of assistive technology devices and services. However, while we are delighted that the current terminology has been incorporated in the proposed legislation, we join with others in recommending that the definitions included in P.L. 100-407 also be placed in the bill. Assistive technology is likely to play a dominant role in the lives of children and adults with disabilities in the future. Thus, it will be imperative that we use universal definitions in order to minimize confusion and maximize opportunities for individuals with disabilities.

The National Council is pleased that the Subcommittee has included language relating to the abrogation of State sovereign immunity. The inclusion of this language will assure that states are not immune from suit when they are in violation of the **Education of the Handicapped Act**. In addition, this will allow parents of children with disabilities to receive relief when a State is in clear violation of the law.

Transition from school to work and adult life is critical for many young persons with disabilities. For far too long these students and their parents have had to struggle to secure even minimal transitional services. For this reason, we are pleased to see that the Subcommittee's proposed amendments authorize a five year grant which will promote collaboration between educators, vocational rehabilitation, and various aspects of the private sector. Perhaps the need for such a program can be highlighted by the following excerpt from our report, The Education of Students with Disabilities: Where Do We Stand?:

> Schools are most effective in preparing students with disabilities for life as adults when there is an emphasis on the development of skills necessary to function in community settings, or for the students to participate in appropriate postsecondary programs. However, testimony to the Council from several sources suggested that graduates exiting school have not been adequately prepared for employment or postsecondary education or training and generally have not had access to resources and services that would enhance successful adult living.

We think these joint projects between special education and vocational rehabilitation will enhance the quality of transitional services which are rendered to young persons with disabilities.

Section 641 (e) (1) calls for the establishment of a demonstration project to provide "ombudsman services" to children with disabilities and their families. During the hearings held by the National Council, we heard from both parents and school officials that due process hearings can be costly. For many parents, there is an emotional toll to pay as well. A section of our report suggests:

> Mediation, a voluntary process to resolve special education disputes, has been adopted by a number of States in part because of the high cost associated with due process. In her written testimony, Kristen Reasoner Apgar, Director of the Bureau of Special Education Appeals for the Massachusetts Department of Education stated:
>
> "Mediation is successful in resolving disputes, because it provides a relatively informal forum, voluntarily chosen by each party. The parties themselves determine the outcome, and the proceedings are confidential, permitting free and open discussion and evaluation of offers of settlement. A substantial number of disputes over the provision of special education are resolved through mediation or through the assistance of a mediator."

While we support the concept of an ombudsman program, we have several suggestions which we feel would strengthen this program. First, the bill refers to this program as "school-based". This implies that a professional within the school system would be responsible for the execution of this program. Our experience, coupled with the knowledge which we gained through our hearings, suggests that parents are suspect of school personnel who try to mediate on behalf of their children. We respectfully suggest that the ombudsman program be placed independent of the school system in order to assure objectivity and impartiality. Second, the language in the bill suggests that ombudsman services be provided by "social workers, parent advocates, and psychologists." We are fearful that this list will limit the number of persons qualified to render ombudsman services. Conversely, some of the professionals specified in the law may not necessarily understand the educational rights and needs of student with disabilities and their families. For this reason, we suggest that this current language be replaced by the following: " persons knowledgable in the Education of the Handicapped Act and skilled in negotiation." This will assure that children with disabilities and their parents receive quality advocacy services.

Finally, we feel it is imperative that the legislation make clear that the ombudsman program does not replace the due process system under P.L. 94-142. Parents must always have the right to a due process hearing if they feel that their child is not receiving the special education and related services which he or she is entitled to under the law.

One of the most astounding findings of our report was that parents are uninformed about their rights under the law. Part of our report states:

> Although school districts are required to inform parents of their rights under the law, witnesses testified that parents frequently report that they are not informed. Studies on the implementation of P.L. 94-142 show that, although procedural compliance with the law (for example, notice of parental rights is routinely sent), obstacles to full implementation remain. (David & Greene, 1983). Very few school personnel take the time to assure that parents of students with disabilities understand their rights.

We think this clearly attests to the overwhelming need for more parent training centers. We are delighted that five new parent training centers would be located in high density areas and conduct outreach to minority parents. Clearly, this will help many parents understand their children's educational rights and needs. We hope, however, that there will soon be a parent training center in each state so that parents throughout the country can become better informed about the unique needs and rights of their children.

We also commend you for the change in language throughout the bill from "handicapped children" to "children with disabilities". These changes are highly appropriate and, we feel, reflect an emerging consensus that the emphasis should be on the person rather than the disability.

Finally, we urge the Subcommittee to give serious consideration to the recommendation contained in **The Education of Students with Disabilities: Where Do We Stand?** which calls for the establishment of a National Commission on Excellence in the Education of Student with Disabilities. P.L. 94-142 was enacted in 1975, yet there has been no comprehensive independent study of the needs of students with disabilities. While our report highlights several areas of concern, we were unable to conduct the type of in-depth study which we feel is warranted and long over due. Should the Subcommittee require any further information on this matter, please feel free to contact the National Council.

I hope these comments on the proposed amendments to H.R.1013 are helpful. Please let me know if I can be of further assistance.

Sincerely,

Sandra Swift Parrino

Sandra Swift Parrino
Chairperson

Learning Disabilities Association
of America

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National Executive Director
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STATEMENT OF THE LEARNING DISABILITIES ASSOCIATION, LDA

Concerning

Reauthorization of Discretionary Programs
Education of the Handicapped Act

To
The Subcommittee on Select Education
Committee on Education and Labor
U.S. House of Representatives

March 2, 1990

LDA COMMENTS ON REAUTHORIZATION OF EHA DISCRETIONARY PROGRAMS

LDA commends the Subcommittee members and staff for the draft bill which was submitted for comment. We hope the Subcommittee will move quickly to enact these revisions to the discretionary programs of EHA. We would like to submit the following comments on specific sections of the draft bill.

TITLE I - GENERAL PROVISIONS

LDA is pleased that the Subcommittee, by adding attention deficit disorders (ADD) to the list of conditions which may be a manifestation of specific learning disabilities, has recognized that some diagnoses of attention deficit disorder (ADD) may include, in addition to attention deficits, memory, motor, and language deficits. Such diagnoses, unlike those based solely on problems of distractability, impulsivity, and hyperactivity, were once called minimal brain dysfunction, a term included in the definition of learning disabilities in current law. The Subcommittee's substitute bill, which identifies ADD as a handicapping condition under the Education of the Handicapped Act, would ensure that the needs of youngsters with specific learning disabilities and attention deficit disorders are met, even when identified as ADD.

SECTION 602(a) TECHNOLOGY RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES

LDA supports the CCD recommendation that the definition of of Section 3(1) and (2) of PL 100-407 be added to the statute. We further request that report language clarify that Technology Related Assistance includes assurances that students with written language disabilities have access to computers to enable them to function in the regular classroom.

TITLE III- CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF HANDICAPPED INDIVIDUALS

1) Transition Section 626

LDA strongly supports the enactment of this new subsection which would encourage state educational and vocational rehabilitation agencies to expand transition services to all students with disabilities. As we have testified before this Subcommittee, many students with learning disabilities are unable to go on to higher education, receive job training, or get and hold jobs because they have not had access to appropriate transition services while in school.

We are particularly pleased that, in (i)(3)(B)(iv) the Subcommittee has responded to LDA's concern about the need for providing self advocacy training for youth with disabilities.

We also strongly support subsection (3)(B(ix) which ensures that students who participate in transition services will have access to pertinent programs under the Rehabilitation Act.

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LDA COMMENTS ON EHA DISCRETIONARY PROGRAMS 3/2/90

2) Personnel Preparation Section 631(c)

As our President, Helene Gruber, testified before your Subcommittee, the key to a free appropriate public education for a child with a disability is an educated parent who knows how to evaluate the child's progress in school. The need for knowledgeable parents becomes even more essential as educational reforms, including the regular education initiative, change the way services are delivered to students with disabilities. Therefore, LDA strongly supports the expansion of the parent training centers to areas which are not now being served. We share CCD's concern about the problem of choosing between expanding the Centers to all states and the new priority for "experimental parent training and information centers to serve large numbers of special education students located in high density areas which currently do not have such centers". But we are also concerned about our inability to reach out to non-white-middle-class parents who share our need to obtain an appropriate education for children with learning disabilities and we hope that the proposed experimental parent training and information centers will provide us with a model to attain our objective of reaching these parents.

3) Demonstration Project of Ombudsman Service Section 641(e)(3)

LDA strongly supports the establishment of a demonstration project that provides services of an ombudsman to assist in resolving problems that arise in seeking an appropriate education for children and youth with disabilities. As we have testified, currently, when there are problems with the school system, parents of students with disabilities which are not covered by the P&A system must choose between accepting the school's decision or hiring a private attorney - if they can afford one.

Virginia Anderson, Chair, LDA Legislative Services Committee

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National Mental Health Association™

President
L. Patt Franciosi
Whitefish Bay, WI
National Executive Director
Preston J. Garrison
Alexandria, VA

February 28, 1990

Patricia Laird
Legislative Analyst
Select Education Subcommittee
518 House Office Bldg., Annex 1
Washington, D.C. 20515

Dear Pat,

The Mental Health and Special Education Coalition submits the following comments for the record of the Hearings concerning Reauthorization of the Discretionary Program of the Education of the Handicapped Act.

Our comments concern the staff draft bill circulated prior to the Hearings.

The MHSE Coalition has recommended that no action be taken in this renewal bill concerning the definition of serious emotional disturbance, and we are pleased to note that the subcommittee draft does not attempt to change this terminology or definition. However, the bill does include a new definition of Specific Learning Disabilities, which would include all children with Attention Deficit Disorders. This could potentially be a major problem, and could result in some children in need of services not qualifying under the federal definition. Currently, states categorize children with ADD in different ways and may use the LD, other health impaired or serious emotional disturbance categories, depending upon the child's needs. By including ADD under one category, the Committee bill would limit the states' flexibility and this could result in some children (those who do not meet the definition of Specific Learning Disability) from receiving services. Children with attention deficits may not qualify as learning disabled, but should nonetheless be eligible for special education and related services.

We would be comfortable if the House, like the Senate, included report language to clarify that ADD is a handicapping condition that can be included under Specific Learning Disabilities, or other categories of EHA.

The MHSE Coalition would also like to commend the Subcommittee for the excellent language in Section 627 concerning services for children with serious emotional disturbance. We support this amendment, which will enable the field to move forward in better identifying and meeting the needs of these children. We further urge the

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committee to provide adequate funding for the projects described in this section, and urge authorizations of $15 million per year for Section 627.

We hope these comments are helpful to the committee, and appreciate the opportunity to express our views.

Sincerely,

Chris

Chris Koyanagi
Senior Director
Government Affairs
National MH Assn.

B. Joseph Ballard
Director of Govt. Relations
Within the Office of the Ex. Dir.
Council for Exceptional Children

HEARING ON THE REAUTHORIZATION OF DISCRETIONARY PROGRAMS UNDER EHA

FEBRUARY, 21, 1990

House of Representatives,
Subcommittee on Select Education,
Committee on Education and Labor,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:10 a.m., in Room 2261, Rayburn House Office Building, Hon. Major R. Owens [Chairman] presiding.

Members present: Representatives Owens, Martinez, Jontz, Bartlett, and Smith.

Staff present: Maria Cuprill, Laurence Peters, Patricia Laird, Wanser Green, Sally Lovejoy, and Pat Morrissey.

Mr. **Owens.** The Subcommittee on Select Education of the Education and Labor Committee will come to order.

This hearing is a continuation of the hearing started yesterday. I will dispense with an opening statement and let the opening statement, which I read yesterday, also suffice for this hearing.

I would like to just comment that yesterday I stated that there are no authorization figures in the current draft before you. However, there are discussions underway between the minority and the majority on authorization figures. We both have formulas and those discussions are going forward.

Witnesses are welcome to make any suggestions about proposals for authorizations or appropriations if they see fit, but we are not ready to offer specific figures at this time.

I yield to Mr. Bartlett for an opening statement or comment.

Mr. **Bartlett.** Thank you, Mr. Chairman.

I don't have a formal opening statement. I'll be looking for recommendations from the witnesses first on the range of items that are in the bipartisan proposal to give us guidance on what you believe works and what you believe doesn't work.

Secondly, for recommendations on personnel preparation both in terms of funding levels and how we structure that authorization. Third, for recommendations on transition services.

I yield back the balance of my time.

Mr. **Owens.** I yield to Mr. Martinez for an opening statement.

Mr. **Martinez.** Mr. Chairman, I don't have an opening statement. I would just like to get on the record that I have had a longtime interest in transition. I believe it's an important element in providing for those people who move from one stage to another.

I would also like to state for the record that California has done this in what they call the WorkAbility program, which is a very strong program that emphasizes vocational and other career and life skills training. I think that we have an opportunity to expand that. I would look forward to working with you and the rank and minority as we move this bill along.

Thank you, Mr. Chairman.

Mr. Owens. Today we have four panels. We would like to commence with Ms. Carol Valdivieso, Project Director of National Information Center for Children and Youth with Handicaps from McLean, Virginia.

You may begin, Ms. Valdivieso. We have a copy of your testimony and will enter that entire statement for the record. You may use your time to elaborate as you see fit.

STATEMENT OF CAROL VALDIVIESO, PROJECT DIRECTOR, NATIONAL INFORMATION CENTER FOR CHILDREN AND YOUTH WITH HANDICAPS

Ms. Valdivieso. Mr. Chairman and Committee members, thank you for inviting me here today to discuss dissemination by the clearinghouses authorized under EHA.

I speak to you today as the Director of the National Information Center for Children and Youth with Handicaps, NICHCY, the first, and therefore the oldest, of the clearinghouses authorized under the Act, and on behalf of two other clearinghouses, The Higher Education and Adult Training for people With Handicaps, HEATH, Resource Center, and the Clearinghouse for Professions in Special Education.

My remarks are intended to provide a context for the need for enhanced dissemination of information to audiences whose benefits the Act is intended. My remarks also address the challenges confronting the clearinghouses for although we serve separate audiences, the major challenges are the same.

They are, to successfully reach diverse populations and to meet diverse informational needs; to keep current on the changes in information management and dissemination; and to successfully outreach to populations and to network with organizations and groups.

Diverse populations. The EHA Clearinghouses recognize the diversity of information needs of their various constituencies. We recognize that information needs change over time. That when a family raises a child with disabilities, there are numerous milestones. Times when new information is needed in order to obtain services to help ease a child through a particular period or to correctly plan for the future. The clearinghouses recognize the need to provide information to the expanding diversity of information consumers.

We must continue to build our capacity to be responsive to the needs of the traditionally underserved populations—Hispanic, Asian, African and Native Americans, rural and urban families and otherwise isolated families, such as those with low literacy levels or who are undereducated, and to families of all races living at or below the poverty level.

The EHA Clearinghouses recognize the demographic changes in this nation's population and in families and the need to understand their needs and to meet them. We know that the country is becoming less white, that the definition of the traditional family is changing, that we must reach out with low reading level materials to the numbers of illiterate, semi-literate, and non-literate English speakers.

There is a need to recruit, train and retain the most qualified people to teach the Nation's children. that the number of children living in poverty and at risk of handicapping conditions is growing, that the aim of education is to be as production an self-sufficient as possible.

Therefore, we need to help families and individuals negotiate successfully through the transition maze and live independently and that many families and professionals are becoming more sophisticated information users.

Changes in the management and dissemination of information. We live in an information society. There is an explosion of information. Yet, while information can empower people, the intended audiences must be able to use it.

As clearinghouses, we refine and package knowledge, inform the public of its availability and make it useable by specific but varied audiences. The mechanisms for information management include the development of databases which contain relevant information, both printed materials and referral sources, and information about the requestor.

These databases are needed to identify the gaps in existing knowledge and to provide information about the issues and trends emerging in the field. These automated systems also assist clearinghouses in networking with other information providers and reduce the tendency to duplicate services.

Finally, these systems assist in expanding the outreach capacities of the clearinghouses and facilitate linkages. In order to respond in a timely and appropriate manner with relevant, useable and accurate information, the EHA clearinghouses must continue to maintain resource collections, databases, mailing lists and facilities for distribution.

They must also maintain diverse and numerous points of access to all constituents. Establishing and maintaining databases is costly, but absolutely critical to information dissemination and referral.

Outreach and networking with information consumers and providers. Networking is the key to successful and cost-efficient information dissemination. Enhancing and expanding networks is a major challenge to the EHA Clearinghouses. Remaining current on who is producing information and fostering the dissemination of this information is important.

The need is mentioned under Section 610 of H.R. 1013 and throughout the proposed legislation authorizing the discretionary programs. But we must remember that simply sending the information to the clearinghouses will not automatically assure its dissemination.

We need to be clear about the intent of these section and encourage those producing information to work with the clearinghouses on effective and efficient dissemination.

Another critical concern is outreach. We believe we are not effectively reaching certain groups. Budget constraints and changes in Federal law regarding the airing of public service announcements has had a significant impact on our ability to reach traditionally underserved populations previously mentioned.

While networking collaboration with other groups can enhance our outreach to the underserved, a well-planned, financed and concentrated public awareness campaign with use of public service announcements, or PSAs, 30-second spots on media, needs to be implemented. Funding in this area is paramount.

We also need to develop low reading level materials. We must be able to respond with materials written in a format that is understandable and appropriate to our populations. Information needs to be available in diverse languages and shared with others in the network who do not have the resources to develop it themselves. Simply reallocating existing funds to shortchange the current level of need will not suffice.

Another component of outreach is image enhancement. If we are going to be truly successful in attracting people into teaching, related service professions, leadership and administration, we need to enhance the publics views of special education.

Specifically, we need to tell the public that it works. That we are successful in our education and training efforts. That special ed is an attractive and viable profession and that things are going well. We need to inform people of best practices. Again, this can be done best through PSAs and they are critical.

Given the challenges currently facing the clearinghouses and the proposals to expand their mission and work scopes, several points need to be clear. An expansion of the clearinghouse's mandate is provided for in the bill.

The need for centralized national clearinghouses is as or more necessary today than ever. There is a recognition that the clearinghouses must continue to synthesize and provide information in formats appropriate to diverse consumers.

An acknowledgement that the clearinghouses must continue to coordinate and foster networking. A demonstrated need to take the expertise and experiences of the clearinghouses in dissemination to provide technical assistance to others who need to disseminate information and then document a need to expand outreach to the underserved.

Thus, we have congressional intent and mandate. What must be realized is that the current level of funding for such a ever-expanding mandate is not enough. In reality, $1.49 million is insufficient for disseminating information which reaches the intended audiences.

A significant increase in the level of funding for the EHA Clearinghouse is vital. Funding increases alone will not assure that the job is done, however. Congress and the U.S. Department of Education must utilize the clearinghouses.

The EHA Clearinghouses have remained aware trends and creative in their approach to the changing nature of the information industry and the growing needs of diverse consumers. The job of the clearinghouses to date is as critical as it was in 1970.

One thing we have learned in the past twenty years is that people with disabilities are indeed able and that their families are committed to their full participation in society. We need to get this information across.

Through the leadership of the Congress, in participation with the Department of Education, dissemination of information and awareness of the potential of the individual by working with the family and with the professional can be achieved.

The EHA Clearinghouses have a long history of experience and expertise in information dissemination and referral services to share. We encourage the continued and increased utilization of this knowledge.

In conclusion, while the needs continue to be great so too are the challenges. Yet, there's great potential for the clearinghouses to be effective participants in the collection and utilization of knowledge and leaders in the dissemination of information.

The national clearinghouses authorized under the Education of the Handicapped Act provide the vehicle for efficient and effective dissemination. We stand ready to assist and to provide whatever help we can. Specifically, we think that we should continue to look critically, not at only what we presently do, but what we need to do.

Thank you for your time and consideration.

[The prepared statement of Carol Valdivieso follows:]

HEARINGS ON HOUSE BILL H.R. 1013 TO AMEND THE DISCRETIONARY PROGRAMS OF THE EDUCATION OF THE HANDICAPPED ACT (EHA)

The Future of the EHA Clearinghouses: Information Dissemination in the 1990's

Statement by

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To

Mr. Major Owens, Chairman
Committee Members

House Subcommittee on Select Education
Committee on Education and Labor
U.S. House of Representatives

February 21, 1990

Mr. Chairman and Committee Members:

Thank you for inviting me here today to discuss the important work and future of the Clearinghouses authorized under Part D, Section 633 of the Education of the Handicapped Act (20 U.S.C. 1433). My name is Carol Valdivieso and I am the Director of the ***National Information Center for Children and Youth with Handicaps (NICHCY)***, the first, and therefore the oldest, of the clearinghouses authorized under the Act. I am speaking to you today, not only in my capacity as the Director of NICHCY, but also on behalf of the other two clearinghouses: ***The Higher Education and Adult Training for people with Handicaps (HEATH) Resource Center***, and the ***Clearinghouse for Professions in Special Education***.

My remarks today are intended to support H.R. 1013 and to provide a context for the need for enhanced dissemination of information to reach all of the important audiences for whose benefit this Act is intended. The role of the EHA Clearinghouses has been one important vehicle by which Congress has affirmed its commitment to provide timely, accurate, and useful information to the nation regarding individuals with disabilities and the programs, resources, research and rights encompassed under the law. While each of the three EHA Clearinghouses has specialized functions, H.R. 1013 expands their missions, and identifies the Clearinghouses in each section of the bill as a dissemination vehicle for all of the discretionary programs. Indeed, this bill recognizes the power of information dissemination as an important change agent for families and professionals to enhance the Special Education and related services, transition, employment, program access, and the retention and recruitment of qualified professionals which are the foundation of our special education service delivery system for all infants, toddlers, children, and youth with disabilities in this country.

The EHA Clearinghouses: History

The EHA Clearinghouses have been an integral part of EHA since 1969. Public Law (P.L.) 91-230 established the **National Clearinghouse on the Education of the Handicapped** in 1970. This original clearinghouse was known by its project name, "Closer Look." In 1982, the clearinghouse became known as **NICHCY**. Since 1984, NICHCY has operated under a cooperative agreement between the U.S. Department of Education, Office of Special Education Programs (OSEP), and Interstate Research Associates, Inc., a minority owned, not-for-profit research, information, and development organization, located in McLean, Virginia. In 1983, P.L. 98-199 added a second clearinghouse, the **National Clearinghouse on Postsecondary Education for Individuals with Handicaps**, called the **HEATH Resource Center**, which operates under a cooperative agreement between the

American Council on Education and OSEP. Citing the need for an expansion in our nation's capacity to recruit, train and retain qualified professionals in the programs and services which meet the special education and related services needs of the nation's children and youth with disabilities, Congress created a third clearinghouse under P.L. 99-457, in 1986. This clearinghouse is known as the **Clearinghouse for Professions in Special Education**, which operates as a cooperative agreement between OSEP and the National Association for State Directors of Special Education and the Council for Exceptional Children.

Since the enactment of the original EHA Clearinghouse, hundreds of thousands of people have been informed of the programs, services, and rights provided by EHA and other Federal legislation. Through the activities of the clearinghouses, families have received the necessary information to know, understand, and exercise their rights; professionals have been recruited into the field; individuals with disabilities have been able to explore their educational, community living, and employment options after high school; and the general public has become aware of the diverse issues and challenges faced by individuals with disabilities and their families. We commend Congress on its continued recognition of the need to provide information to the nation, and to expand the scope and mission of these clearinghouses. The mandate is quite encompassing and we believe that we have been very successful in carrying it out.

The EHA Clearinghouses represent some of the most effective uses of tax dollars authorized for the discretionary programs. The clearinghouses provide the necessary information to connect people who require information to those who have it to share, as well as providing a synthesis of information necessary to inform people of the resources, research, trends, and issues which challenge the nation in providing special education and related services to children and youth with disabilities. However, as the number, scope, and missions of the EHA Clearinghouses have grown, funding for these important projects has not, leaving the nation's information and dissemination goals frustrated and often short of their mark. The following describes the authorizations and appropriations for the clearinghouses since 1984:

EHA Clearinghouse Funding (In Thousands of Dollars)

Fiscal Year	1984	1985	1986	1987	1988	1989	1990
Authorization	1.0	1.05	1.110	1.2	1.9	2.0	2.0
Appropriation	1.0	1.025	1.062	1.2	1.149	1.135	1.479

These funds have supported the creation of two additional clearinghouses at a time when requests have continued to grow substantially with no reduction in workscope. Each year, the EHA Clearinghouses respond to over 60,000 individual requests for information and disseminate well over 100,000 publications. For example, since 1984 inquiries received by NICHCY have grown from 12,000 to almost 40,000 in 1989 at a time when funding has been reduced from $684,000 in 1984 to $615,000 in 1989. During this time NICHCY has become more efficient in its operation, has reduced staff and outreach, become completely automated, installed toll-free access, while achieving a three-fold increase in inquiries to the project. Similar statistics are demonstrated by the other clearinghouses. In essence, the EHA Clearinghouses have done more with less and continue to respond to expanding missions and workscopes, growing diversity in the characteristics of information users, the "explosion" of information related to disabilities, and to the evolution in the technology available for managing and disseminating information.

Congress and the U.S. Department of Education have remained committed to disseminating information to the nation regarding disabilities. The EHA Clearinghouses have a pulse on who, what, where, why, and when people use and need information. Each of the EHA Clearinghouses must remain as a partner in the discussion of information dissemination. This utilization of the experiences, knowledge, and capacity of the EHA Clearinghouses could demonstrably enhance and expand the information disseminated to the nation. For example, the EHA Clearinghouses need to become even more a collaborative partner with the numerous single dissemination activities contained in the Department's research, demonstration, and training grants to reduce and avoid duplication of the efforts of the EHA Clearinghouses, the Department, and funded projects.

Current Trends Challenging the EHA Clearinghouses

Changes in who needs and uses information.

The EHA Clearinghouses continue to recognize the diversity of informational needs of their various constituencies. We recognize that when a family raises a child with disabilities there are numerous milestones, times when new information is needed in order to obtain services, to help ease a child through a particular period, or to correctly plan for the future (i.e., transition, postsecondary education, and employment). We are also aware of the latest Louis Harris Associates' survey which revealed that 61% of the parents said that they knew little or nothing about their rights under key Federal law. We also recognize the growing need to recruit qualified personnel to respond to the question, "Who will provide special education and related services to our children?".

In order to accomplish the goal of providing information to the nation, the clearinghouses must expand their networks and increase collaboration with other information providers, including research centers, Regional Resource Centers, the Parent Training and Information Center projects, other clearinghouses, such as the ERIC Clearinghouse on the Handicapped and Gifted, and with federal, state, and local agencies, disability and professional organizations, and grass-roots parent groups.

The EHA Clearinghouses must remain active in providing information to the expanding diversity of information consumers. The EHA Clearinghouses must continue to build their capacity to be responsive to the needs of "traditionally underserved" populations--Hispanic, Asian, African and Native Americans, rural and urban families and otherwise isolated families (such as those with low literacy levels, or who are undereducated), and families of all races living at or below the poverty level.

The trends reflecting diversity are well documented in the literature and have been the subject of previous testimony before this Subcommittee (NICHCY, 1987; Simon, 1989; Vincent and Salisbury, 1988; U.S. General Accounting Office, 1981). First, the American family is changing. If current trends continue, the poor and less educated will bear the largest percentage of this nation's future children. Data from the 1980 census, and I believe the trend has continued, reflect that the term "family" is difficult to define. The number of single parent families is growing. In the past 20 years, the number of children born to single mothers has tripled; for example, among African American families, 57% are headed by a single parent, usually a woman. Today, twenty percent of all births are to teenage mothers, many of whom are unwed. In addition, millions of children are affected by family breakups each year. If we look at the facts, 67% of the children born in America today will be raised by a single parent for at least a part of their lives.

Second, this country is becoming less white. The numbers of people of Asian and Hispanic origin are increasing, with Hispanics representing the numerically fastest growing population. As a young population, the bulk of the Hispanic group are in, or have yet to reach, the child-bearing years. Due to their high birth-rates and continuing immigration in significant numbers, demographers project that Hispanics will be the largest minority by the year 2020. The group with the fastest rate of growth in comparison to their base population is the Asian and Pacific Islanders. Numerically, they are immigrating into the country at levels comparable to legal immigrants who are Hispanic. In the 1990's, the nation will have large numbers of children of immigrants attending U.S. schools. Projections indicate that a third of all school-aged children will be minority by the year 2000.

Third, the number of children living in poverty is increasing. In 1980, 18.3%, or 11.5 million children under the age of 18 years were living in poverty. By 1987, this population grew to 20.6%, or 13 million children under 18 who lived in poverty (U.S. Census Bureau, 1987). While the fact that a child is poor does not automatically mean that he or she will have difficulty in school, poverty can lead to health problems and influence the social environment in ways that can interfere substantially with a child's ability to learn. The strong link between poverty and the prevalence of disabling conditions makes the persistence of poverty a significant concern to our nation.

Drug abuse, prenatal infection, poor maternal nutrition, prematurity and low birth weight have been cited as potential causes of disabilities and developmental complications among children from low income populations, including minorities (Simon, 1987). As a result of the passage of P.L. 99-457, many more low income children will begin receiving services at birth, shortly thereafter, or during the preschool years. Moreover, advances in medical technology have made improvements in the viability of expanding the life of many children born with complications. We must enhance our capability to provide information to the families and professionals who will live and work with these children.

Another problem confounding our nation is illiteracy. Accurate statistics are not available because of a lack of a standard definition of the term. However, a study by the U.S. Census in 1982 reported that from 17 to 21 million adults, or 13% of the population, were illiterate (National Clearinghouse on Literacy Education). We know that each year 700,000 to one million youths drop out of school. We are challenged to reach this population for they have children who may need our services.

A fourth concern reflects the need to recruit, train, and retain the most qualified people to serve our children and families. The National Center for Education Statistics reports that there has been a 35% decline in graduates of special education personnel preparation programs within the past decade (Carriker, 1989). The problem is magnified by indications that there will be an increase in the number of students requiring special education, while a cohort of trained special education professionals will be retiring during the coming decade and that each year a large number of special education professionals leave the profession for personal reasons.

Finally, sophisticated information users are growing. One of the successes of EHA Clearinghouses, Regional Resource Centers, and the Parent Training and Information Centers (PTIC) has resulted in a growing number of parents and professionals needing access to more comprehensive information about research, effective programs, trends in the field, and literature. These are well informed groups whose knowledge and experience are needed to inform and train others. Parents are becoming more sophisticated information users, with many PTICs asking for, and using more complex information materials. For example, NICHCY has recently released a publication called, "A Parent's Guide to Accessing the ERIC System," to meet the needs of more sophisticated parents. Professionals are also becoming more sophisticated information users. Teachers, administrators, directors, and others are asking for up-to-date information about programs and practices, and better ways to work with families and individuals with disabilities. Professionals come not just from education, but from health, law, rehabilitation, related services, and human services. Even journalists are asking more often for accurate information to include in their stories, articles, and news programs.

In summary, we must continue to build our capacity to expand the knowledge of those who live and work with infants, toddlers, children, and youth with disabilities; to make them aware of the law, to help them become informed consumers of information, to explore options in special education, related services, and transition, and to disseminate the knowledge gained from model programs, and best practices in the field. We must increase our capability to reach traditionally underserved populations to improve their access to special education and related services. Finally, we must be responsive to sophisticated information users; those with knowledge of the law, and access to the information available from the network of researchers, policy makers, and government agencies. These goals demonstrate a recognition of the diversity of information consumers, and present the EHA Clearinghouses with awesome challenges.

Changes in Information: Management and Dissemination.

Today, we live in an information society. There is an explosion of information; yet, while information can empower people, the intended audiences must be able to use it. Information dissemination is a growth industry defined as one which refines and packages knowledge, informs the public of its availability, and can be used by specific, but varied audiences. Information and referral is a method of connecting a person in need of a service or an information source to the needed source or the specific information to answer the question. However, the nature of the industry is changing. Today, information and referral services must not only provide information and referral, but must also contribute to the knowledge base of the information user. This is an important distinction. It is simply not enough to put a requestor in touch with a referral source. This method results in an outcome whereby the information user simply learns the answer to a single question. If information is to be used to empower people, it must be conveyed in a manner which helps the user to become knowledgeable in how to access and use information to respond to new questions, and to become knowledgeable about the full range of options available. Therefore, the clearinghouses must maintain the capability of synthesizing materials, developing information products, and maintaining the resources necessary to respond to questions along a continuum of users and services.

NICHCY, thanks to Congressional foresight, has done this for years. The staff at NICHCY is skilled in knowing how to find out what the question is, locating the information and resources necessary to answer it, and responding to the inquiry in a way that can be understood by the requestor. This includes the synthesizing of materials into usable formats which answer the most commonly asked questions, responding by letter or telephone, and developing both print and other media materials, or using already developed materials when available. In addition, NICHCY continues to produce issue papers, and free subscription products on complex trends in the field. Currently, over 80,000 people subscribe to NICHCY's information products, and thousands more request these materials in multiple copies.

Requests to NICHCY represent the diversity of information users. Requests range from simple to complex; however, each receives attention. Furthermore, each question receives an answer. This is accomplished **free of charge**.

The mechanisms for information management include the development of databases which contain relevant information--both printed materials and referral sources, and information about the requestor. These databases are needed to identify gaps in existing knowledge, and to provide information about the issues and trends emerging in the field. These automated systems also assist the clearinghouse in networking with other information providers, and reduce the tendency to duplicate services. Finally, these systems assist in expanding the outreach capacities of the clearinghouse and facilitate linkages.

The management and dissemination of information through the EHA Clearinghouses provide options for promoting participation, effective services, interagency collaboration, and information sharing. These services are reflective of the continuing need for specialized information about education, the field of special education, and disabilities. Each day babies with disabilities, or at risk of developing disabilities, are born, children are diagnosed as needing special education and related services, youth are transitioned to work or postsecondary education, and people with disabilities are choosing paths for independent living. Parents and family members continue to seek answers to questions about their developing child, to plan for the future, and to become full participants in their child's education. In addition, professionals enter the disability field and change jobs within the field on a regular basis. Public policy issues emerge, and legislation and court rulings change over time as well.

In order to respond in a timely and appropriate manner, with relevant, useful, and accurate information, the EHA Clearinghouses must continue to maintain resource collections, databases, mailing lists, and facilities for distribution. They must also maintain diverse and numerous points of access for all constituents, with toll-free telephone access being the most critical.

Outreach and Networking with Information Consumers and Providers.

Collaboration, interagency cooperation, and networking is the key to successful and cost efficient information dissemination. NICHCY has collaborated with diverse groups in developing and disseminating materials. For example, the latest issue of **NEWS DIGEST** on "Assistive Technology," was developed in collaboration with the Center for Special Education Technology, and with contributions from the Association for the Advancement of Rehabilitation Technology (RESNA), the National Easter Seal Society, and several parents and professionals. Collaborative efforts have been ongoing with other clearinghouses (e.g., the ERIC Clearinghouse on Handicapped and Gifted Children), with disability groups (e.g., United Cerebral Palsy Associates, Learning Disabilities Association, the Epilepsy Foundation, and the Consortium of Citizens with Disabilities), professional organizations (e.g., the Council for Exceptional Children, the National Association for State Directors of Special Education, and the National Alliance of Pupil Service Organizations), parent groups (e.g., the Federally funded Parent, Training and Information Centers, Parent-to-Parent Groups, Chapter One/Title One Parents, and the National Council on Parent Involvement in Education), groups representing the interests of the underserved (e.g., Three Feathers Associates, the American Council on Rural Special Education, and the National Council of La Raza), numerous public agencies (e.g., The Protection and Advocacy Agencies, Developmental Disabilities Councils, and the Part H Coordinators), and federally funded projects (e.g., NEC*TAS, National Center for Vocational Education, and the Regional Resource Centers).

These networks reflect the fact that special education is a partnership of many complementary, yet separate parts; each part is needed to make a whole. The laws, especially the Education of the Handicapped Act, and the discretionary programs, were written to ensure the partnership of these many components, and in order for the law to be most effectively implemented, both in practice and intent, one part of the whole should not be emphasized over the others. The major parts of special education include parents, professionals, and individuals with disabilities. ***Information provides the linkages for these groups to work together***.

Enhancing and expanding networks is a major challenge to the EHA Clearinghouses. Remaining current on who is producing information, and fostering the dissemination of this information is important. This need is mentioned under Section 610 of H.R. 1013 and throughout the proposed legislation reauthorizing the discretionary programs, but we must remember that simply sending the information to the clearinghouses will not automatically assure its dissemination. We need to be clear about the intent of these sections, and encourage those producing information to work with the EHA Clearinghouses on effective and efficient dissemination. Networking is one component of this challenge.

Another critical challenge for the EHA Clearinghouses is outreach. How do people become aware of the services of the Clearinghouses? How do we encourage people to contact us? The answers to these questions involve both Public Awareness campaigns, and networking. At NICHCY, we believe that we are well aware of whom we reach and whom we do not reach. Currently, requests to the clearinghouse represent 55% from families, and 45% from professionals. This tells us that people have become aware of NICHCY through both public awareness campaigns (i.e., PSAs) and through the networking activities of the clearinghouse with thousands of groups. This also tells us that professionals have become aware of NICHCY through activities such as conference attendence, at which NICHCY displays and presents, and to those with access to directory information which includes information about NICHCY. We also know that parents have become aware of NICHCY through similar mechanisms.

We believe that we are not effectively reaching certain groups. Both budget constraints, and changes in Federal law regarding the airing of Public Service Announcements has had a significant impact on NICHCY's ability to reach the traditionally underserved populations previously mentioned. While networking and collaboration with other groups can enhance our outreach to the underserved, a well planned, financed, and concentrated Public Awareness campaign needs to be implemented. Funding in this area is paramount. We must be able to respond with materials, written in a format that is understandable and appropriate to this population. This information needs to be available in diverse languages and shared with others in the network who do not have the resources to develop it themselves. Simply reallocating existing funds to "shortchange" the current level of need, will not suffice. Only Congress can make this mission a reality through the authorization and appropriation of additional funds specifically targeted for outreach efforts.

The Current Reauthorization: H.R. 1013

Given the challenges currently facing the EHA Clearinghouses, and the proposals to expand their mission and workscope, several points need to be clear.

1. An expansion of the clearinghouses' mandate is provided for in the bill. The need for centralized, national clearinghouses is as, or more, necessary today than ever. In particular, H.R. 1013 provides a direction and mission for each of the clearinghouses. There is a

recognition that the clearinghouses must continue to synthesize and provide information, in formats appropriate to diverse consumers; an acknowledgement that the clearinghouses must continue to coordinate and foster networking; a demonstrated need to take the expertise and experience of the EHA Clearinghosues in dissemination to provide technical assistance to others who need to disseminate information; and a documented need to expand outreach to the underserved. Thus, we have Congressional intent and a mandate. What must be realized is that the current level of funding for such an ever-expanding mandate is not enough. In reality, 1.49 million dollars is insufficient for disseminating information which reaches every parent, touches every potential special education and related service professional, and accesses every individual with a disability to the ever growing options for employment and postsecondary education. A significant increase in the level of funding for the EHA Clearinghouses is vital. To catch up with recent funding losses, and to meet the mandate of this proposed legislation, funding must be significantly increased. The authorization levels should be increased to at least 3 million dollars for FY 1991, and adjusted appropriately for inflation in the ensuing three years.

2. Funding increases alone will not assure that the job is completed. Congress and the U.S. Department of Education must utilize the clearinghouses. Too often, we see long standing projects ignored. The EHA Clearinghouses have remained aware of trends and creative in their approach to the changing nature of the information industry and the growing needs of diverse constituents. The challenge to the EHA Clearinghouses today is as critical as it was in 1970. People with disabilities and their families and the professionals who serve them continue to become more integral parts of the community and awareness of disability issues and emerging trends needs to be shared among the component parts. Non-special Education groups, including all of education, employers, health care professions, recreation, and community-based groups, need to become fully aware of the issues relating to disabilities. One thing we have learned in the past 20 years is that people with disabilities are indeed, ABLE, and that their families are committed to their full participation in society. We all have a stake in making our communities truly accessible. Through the leadership of the Congress and participation with the Department of Education, dissemination of information and awareness of the potential of the individual, by working with the family and the professional, can be achieved. The EHA Clearinghouses have a long history of experience and expertise in information dissemination and referral services to share. We encourage the utilization of this knowledge.

3. The increased attention to dissemination throughout H.R. 1013 is apparent. Fostering this exchange will require that we work

collaboratively. As the U.S. Department of Education makes a serious effort to bring together the various components of the network and begins to develop comprehensive dissemination and outreach strategies, the EHA Clearinghouses can play a pivotal role. During the past three years, the EHA Clearinghouses, along with the ERIC Clearinghouse on Handicapped and Gifted Children have begun to sponsor an informal meeting to discuss the issue of dissemination and outreach. This effort, called the **Clearinghouses in Collaboration**, was not a mandate, but rather a recognized need on behalf of the clearinghouses to begin to investigate methods of improved collaboration, joint dissemination, and to look at how our products and services can be better used to reach those who we know are missing in the information cycle. This effort should be continued and expanded to include not only the clearinghouses, but families, professionals, researchers, non special-education entities, the states, other federal agencies (e.g., Health and Human Services, Transportation, Labor, and Housing and Urban Development) and members of Congress.

Conclusion

While the needs continue to be great, so too are the challenges. Yet, there is great potential of the EHA Clearinghouses to be effective participants in the collection, utilization, and dissemination of information. H.R. 1013 recognizes this potential. It is up to all of us to look critically at the purpose, function, and role of information dissemination, to set goals, establish activities, evaluate the efforts, and to come together so that those who want and need to know will continue to have access to the information which empowers them, expands knowledge, fosters linkages and cooperation, is sensitive to diverse users, and facilitates state and local information dissemination efforts. The national clearinghouses authorized under the Education of the Handicapped Act provide the vehicle for efficient and effective dissemination. Their increased use and access will benefit everyone. Thank you for your time and consideration.

I have enclosed remarks for the record by Rhona Hartman, Director of the HEATH Resource Center.

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Mr. **Owens**. Thank you, Ms. Valdivieso. You mentioned budget constraints. What is your present budget?

Ms. **Valdivieso**. NICHCY's present budget is $615,000. The HEATH Resource Center, which handles all of the transition programs which I heard two of the members mention, is only $300,000. These are very small amounts to reach the Nation and inform them of what is going on.

The careers of the Professions Clearinghouse is budgeted at $200,000. You've talked very much about the need to increase the recruitment and retention of teachers. That's a very small amount to accomplish these acts. As I mentioned, there is a great need for media, outreach especially to underserved populations.

Mr. **Owens**. Do you do any of that at present—media outreach?

Ms. **Valdivieso**. We do media outreach. Yes, sir. But what has happened is we have not developed any new PSAs since the 1970s. There is a critical need to do that.

Mr. **Owens**. You are doing media outreach in 1990——

Ms. **Valdivieso**. Yes.

Mr. **Owens**. [continuing] with material that you developed in 1970?

Ms. **Valdivieso**. Yes.

Mr. **Owens**. Is it the cost of the development that is the problem? You can get free spots on media.

Ms. **Valdivieso**. Because NICHCY's done this for a number of years we have developed a method that we think is pretty effective. We do get free spots and we send it out to television stations across the Nation. It is up to them whether they air it or not. However, the PSAs that we send out are reissues of what were developed in the 1970s.

Mr. **Owens**. If you had additional money—well, let me ask this. What's a reasonable amount, in terms of the kind of budget you think you need to do this nationwide——

Ms. **Valdivieso**. In terms of media outreach?

Mr. **Owens**. Yes.

Ms. **Valdivieso**. At least $400,000 a year.

Mr. **Owens**. That would do what? Allow you to have public service announcements?

Ms. **Valdivieso**. Yes.

Mr. **Owens**. How frequently?

Ms. **Valdivieso**. With one public service announcement, it would be sent out to television stations across the Nation and it could continue to be aired for months to come, which would be very effective.

Mr. **Owens**. What would the $400,000 pay for? The development of a new set of announcements?

Ms. **Valdivieso**. Develop a new set of announcements, which would include the needs for all three of the clearinghouses and the particular consumers and the particular constituents that they service.

For instance, NICHCY serves from zero to eighteen. The HEATH Clearinghouse serves those who are going into postsecondary education and those who are transitioning from school to life, to other areas, who are going into supported employment. The Professions is aimed at attracting teachers and others into the professions that deal with special disabled kids.

Mr. Owens. What about reaching the traditionally underserved populations, minority populations? Would just additional money for media outreach do the job? Would you propose some other strategies to accomplish that?

Ms. Valdivieso. Yes. The other strategies that we propose are the development of low reading level material. We do many things that do not cost extra money. For instance, we are working with the Department of Agriculture to try to reach rural populations and the Extension Services under the Department of Agriculture.

We are working with BIA. We are working with other Federal agencies. We also work with the groups and organizations that deal with them. There is a critical need for low reading level material. There is a critical need for material written in other languages.

However, we must recognize that there are segments of the population that are best reached, not through written material, but through the media. We have those channels. We need to make use of those channels once again.

They were used heavily in the 1970s to inform people about this new law, Public Law 94-142, and to tell them that we had education for their children with disabilities. We need it again to tell people what new things have come about. The new policies and initiatives that Congress has mandated and the Department is implementing.

Mr. Owens. So the extra $400,000 will allow you to provide those services?

Ms. Valdivieso. Just for the media. Yes.

Mr. Owens. How about Hispanic radio stations and stations which are aimed at predominantly black audiences in the big cities?

Ms. Valdivieso. Yes. Yes.

Mr. Owens. Are you doing anything with radio stations now?

Ms. Valdivieso. Yes, we do. Yes, we do. We deal with some of the hispanic television stations. We try very hard to reach those audiences because we believe that that's what many people listen to and that's what they see. That they are much more inclined to get information that way than they are through written materials.

Let me clarify something, if I may. The $400,000 a year that I'm talking about should be specifically earmarked to media outreach. The clearinghouses themselves are extremely underfunded.

If you really want us to do the job that we can do, to really reach out to populations, the clearinghouses at the level of funding that they are at now—and as a matter of fact over the last three years funds have been cut—need not only to be——

Mr. Owens. Clearinghouse funds were cut?

Ms. Valdivieso. Yes. Three years ago we, for instance, were at $700,000. We are now operating at $615,000. Each one of the clearinghouses should be operating with a million dollar budget.

Mr. Owens. How is your service being used? Are you getting more demand from the public than you are able to meet?

Ms. Valdivieso. We are getting an increased demand for our services. Not only are we getting an increased demand for our services but we are getting more complex questions, more complex requests for information.

This is partly due to the growing complexity of the field. It is also due to the fact that many consumers are becoming more informed. They now know their rights and responsibilities. They need more information to help them secure their children's well-being after school is over and during school.

Mr. **Owens**. From the various other projects that are funded under this discretionary grants program, do you get cooperation in terms of them giving you information about what they are doing? Do they enhance your process of information dissemination?

Ms. **Valdivieso**. Well, I was very glad to see that there is some effort being made for more coordination and cooperation. We, as clearinghouses, feel that our skills lie in dissemination. We have already entered into conversations with the Department as to how we will interact in making their information and their resources more available to constituents out there.

Mr. **Owens**. Thank you, Ms. Valdivieso. You are not too far away so we may make a visit sometime soon.

Ms. **Valdivieso**. I would love it. I invite all of you.

Mr. **Owens**. I yield to Mr. Bartlett.

Mr. **Bartlett**. Thank you, Mr. Chairman.

I would like to visit the clearinghouses also and will join with the Chairman in doing that.

Ms. Valdivieso, back up just a bit and describe your organizational structure and your funding sources. That is to say, do the clearinghouses report in a line operation to the Department of Education or are you independent?

Ms. **Valdivieso**. No. The funds are given out as cooperative agreements. We are with a consulting firm. HEATH is with an education organization. The Professions Clearinghouse is jointly sponsored by CEC and NASDE.

Mr. **Bartlett**. So it's three separate clearinghouses——

Ms. **Valdivieso**. Yes.

Mr. **Bartlett**. [continuing] and they each have three separate board of directors and management teams?

Ms. **Valdivieso**. Three separate management teams, yes. Three advisory boards, yes.

Mr. **Bartlett**. Okay. You are funded in part by the Department of Education?

Ms. **Valdivieso**. Totally.

Mr. **Bartlett**. Totally?

Ms. **Valdivieso**. Yes.

Mr. **Bartlett**. So you have no private money?

Ms. **Valdivieso**. No.

Mr. **Bartlett**. No education money, postsecondary money?

Ms. **Valdivieso**. No

Mr. **Bartlett**. CEC money?

Ms. **Valdivieso**. No.

Mr. **Bartlett**. So it's strictly a grant.

Ms. **Valdivieso**. Yes. Cooperative agreement.

Mr. **Bartlett**. Cooperative agreement.

Ms. **Valdivieso**. Yes.

Mr. **Bartlett**. What's the difference?

Ms. **Valdivieso**. With a cooperative agreement we work very closely with the Department. They review our materials. We put out publications. They tell us what the needs are, what the trends are. We work very closely with a project office in the Department.

Mr. **Bartlett**. Does the Department of Education review your results every year?

Ms. **Valdivieso**. Yes. Quarterly.

Mr. **Bartlett**. Quarterly.

Ms. **Valdivieso**. And every year. Yes.

Mr. **Bartlett**. Is the agreement such that the Department can and do they tell you to operate differently or the same or is it that kind of a management authority? Or is more of an oversight?

Ms. **Valdivieso**. It's an oversight. However, because we work cooperatively in the development of products and in constituents that we might need to outreach to, they do advise us. They do tell us things that they want. It is not a direct management function though.

Mr. **Bartlett**. So you are responsible more to your board of directors for your results.

Ms. **Valdivieso**. I'd say we were responsible to both.

Mr. **Bartlett**. To both. Okay. Describe for me, of the three clearinghouses, the results as measured by quantity of people that you have had a direct contact and a feedback from per year.

Ms. **Valdivieso**. Direct contact. NICHCY, we receive approximately 40,000 requests for information a year. The other clearinghouses received less numbers, but quite a few. In terms of dissemination of product, we send out over——

Mr. **Bartlett**. How many did the others receive per year?

Ms. **Valdivieso**. The HEATH Clearinghouse responds to approximately 1,600 requests for information a month. The Professions Clearinghouse, I really don't have that information. I would be glad to submit it to you for the record.

Mr. **Bartlett**. How many responses then do you send back out as a result of requests?

Ms. **Valdivieso**. We send out more responses than that. For instance, we received 40,000 requests for information. We would send out more responses than that because one request might be for numerous people for it to be sent to. It might be multiple copies of information. So much more than that is sent out. I would say hundreds of thousands of pieces of material.

We also develop new products. For example, in the new products that we send out per year, we do three issues of news digests and one transition summary. Those are printed in different quantities. Over 100,000 pieces of new material are sent out specifically by the NICHCY Clearinghouse per year.

Mr. **Bartlett**. With 100,000 per year.

Ms. **Valdivieso**. More than that.

Mr. **Bartlett**. That material is unsolicited as opposed to requested.

Ms. **Valdivieso**. Yes. Well, when I say unsolicited. No. We have a mailing list which has over 80,000 names on it of people who want our material. We do not have the funding to send every issue that we put out to all 80,000 so what we do is because it's coded by handicapping categories, we target specific codes which tell us who we can send it out to.

We also maintain what we call a Q-11 list on our database, which is approximately 4,000 of the major organizations in the Nation—state, local and national—which deal with disability issues. We also have a Q-12 list which are grassroots publications and major publications that we send our publications to hoping that they will tell others about it.

All of our materials are free. They can be reproduced ad infinitum and used as many times as necessary.

Mr. **Bartlett**. You've looked at the proposal that Chairman Owens and I are working on as far as a bipartisan proposal.

Ms. **Valdivieso**. Yes.

Mr. **Bartlett**. Is there anything about that proposal that you would add or change? Does the language in that proposal improve the current statutory language or does it make it worse or some of a little bit of both? If you were in our shoes how would you write the perfect authorizing language?

Ms. **Valdivieso**. We were very pleased at what we saw that had been written. There was only one thing that we would like to see changed, and I mentioned that today. That is to increase the monies that come to us for media outreach, for public awareness, for PSAs. That is already in the language, but I wanted to bring that to your attention today and to tell you how really necessary we all feel that is at this time in our nation.

Mr. **Bartlett**. You believe that that would then generate more requests for material?

Ms. **Valdivieso**. It would indeed.

Mr. **Bartlett**. Would you be able to fill those requests?

Ms. **Valdivieso**. Can we handle them? We'll do our best. We've done it for years.

Mr. **Bartlett**. I am talking about money, not will. I detect you have the will to do it, but if we put in $400,000 for media to generate another 40,000 requests on top of your current 40,000 requests, do you have the money to fill the second 40,000?

Ms. **Valdivieso**. No. No. Not at our present level of funding.

Mr. **Bartlett**. Then I guess if we put in money for media, we need to put in money for media and response to the media.

Ms. **Valdivieso**. Yes. Yes. In other words, increase the appropriation levels for each of the clearinghouses.

Mr. **Bartlett**. Can you give us a profile or some kind of a quantified description of what the people look like who are requesting information by category—parents, teachers, potential special education teachers, existing special ed teachers, other organizations? When you answer the phone who is most likely going to be calling?

Ms. **Valdivieso**. We receive 45 percent of our requests from professionals. Now this is not only education professionals, it's lawyers, social workers, people in the health field, journalists. We answer 55 percent of requests from families.

These range all the way from a grandparent writing us to say—I just had a grandchild born with Downs Syndrome; what is that?—to a very complex question which deals with a woman whose husband three years ago started a business and they just had a child with a handicapping condition. The child needs an operation. They don't have adequate insurance. The doctor has told them if they don't have this operation within 30 calendar days there's no need to have it, and there's no chance for the child being corrected for that particular problem, and what do they do.

Mr. **Bartlett**. You don't do basic research so you essentially research your files and send them that data?

Ms. **Valdivieso**. Exactly. Our information specialists do not claim to be experts in any one area. What they do is they're experts of where to tell the person to get information, to refer them.

Mr. **Bartlett**. Ms. Valdivieso, just for my knowledge base and for this subcommittee's knowledge base, what I would ask you to do and with the Chairman's permission we'll keep the hearing record open, if you would submit it both to the subcommittee and to me individually—take those two examples that you just gave us, and fill those requests.

Pretend that I am the grandparent whose daughter just had a Downs Syndrome baby and then pretend that I am the small business without insurance. Just use those two examples and send me what you would send. Don't fudge. Send what you would really send in that case.

Ms. **Valdivieso**. I have someone here who is in charge of the information services at NICHCY if you would like for her right now to tell you what she would.

Mr. **Bartlett**. No. I want to open it up in the mail.

Ms. **Valdivieso**. You want it written. Okay.

Mr. **Bartlett**. I want my brown envelope. I am going to open it up in the mail and read what you sent me.

Ms. **Valdivieso**. I'd delight in doing that.

Mr. **Bartlett**. Thank you. Thank you, Mr. Chairman. I yield back.

Mr. **Owens**. Be sure to mark it personal and confidential, otherwise——

[Laughter.]

Mr. **Bartlett**. If you send it to my home, my wife will want to know if I've got another family that I am a grandparent already.

Mr. **Owens**. We have been joined by two colleagues, Mr. Smith of Vermont and Mr. Jontz of Indiana.

Mr. Martinez.

Mr. **Martinez**. Thank you, Mr. Chairman.

Ms. Valdivieso, in your written statement you made a statement which—I was reading some material when you were going through your oral statement and I apologize for not paying close attention at all times. But one of the things that I did pick up from your written statement was that a Lewis Harris Associate survey it revealed that 61 percent of the parents knew little or nothing about their rights under key Federal law.

I find that a very valid and troubling statement. It seems like in my experiences in the almost eight years, that I have been in Congress, that when I go back to the district I continually find people who are unaware of all the wonderful things that Congress is doing and all the programs that could assist them.

If anything our office has become a clearinghouse for our constituency. But there is a clearinghouse needed for a broader base than just my constituency. That's nationally.

I have, in my time in Congress, tried to push for that in each of the measures and legislation that we have considered. There needs to be in all of these matters a clearinghouse so that this information can be disseminated to the various people that need the help. Yours is certainly one of the agencies that is doing that.

I kind of chuckle when you say you have a cooperative agreement with the Department of Education because to me cooperative means cooperation. Cooperation is taking into consideration what your job needs are to do the job you need to do and then making sure you have the funding for it.

Conversely, I see in your statement too that you have gone from something like 12,000 individual inquiries to 40,000. I would say that's tripled at 36,000, and this is beyond that. And yet, your funding in that same period of time has been diminished by $70,000—$69,000 if you want to be technical but I like the figure $70,000.

At any rate, you have, in that period of time, supplied over 100,000 publications. I imagine that the request for information is different than the 40,000 inquiries. Right? The 60,000 requests for information are actual people that requested some form of information that you send out. Is that right?

Ms. VALDIVIESO. They're requesting information on all manner of issues related to disabilities. It could be what toys, what clothes, how do I get transportation? It's everything that has to do with disabilities. Those are the requests.

Mr. MARTINEZ. Almost everyone that works for the Federal Government, especially in areas like this, seems to be there with their hat in hand asking for help.

Ms. VALDIVIESO. Yes.

Mr. MARTINEZ. Sometimes it's hard for them to be aggressive and demanding. Really they should be aggressive and demanding because we—I always chuckle too at the word "leaders"—as leaders, need to be responsive to that need. When we get an aggressive request, we ought to look at how we can best provide for that.

Of course, everybody says well we have an austerity budget. Money is short. We are not going to raise taxes to provide for the need. Well, then we can cut defense spending and provide for the need because we are going to have a peace dividend that everybody is yelling about.

I don't see that coming about in the near future. There are some things that we have let go on a domestic scale that we need to address because we are in real trouble all around. My question is wouldn't you like to be a little more aggressive and say we need this money. Give it to us.

Ms. VALDIVIESO. Thank you for asking me that.

[Laughter.]

Ms. VALDIVIESO. I was delighted, yet frightened, at the prospect of coming here and talking to such a group, but we are forbidden to lobby. So that is perhaps why you don't hear from us any more than you do. This gives me an opportunity to stand up here and to talk to all of you and to finally tell you what our real needs are.

With permission, I would be absolutely as aggressive as you would allow.

Mr. MARTINEZ. You have my permission. You have the Chairman's permission. I am sure you have Mr. Bartlett's permission.

Ms. **Valdivieso**. We have tremendous needs. You talked about and so did Mr. Bartlett talked about transition and your interest in transition. The idea that fund a clearinghouse for only $300,000 a year does not put real impact behind your verbal commitment.

The idea that you talked about personnel prep and the real need for teachers out there and you fund a clearinghouse at only $200,000 per year does not really put real impact behind your verbal commitment. We deal with all issues related to visibility. As you just read our increased volume of workload, $600,000 does not put real impact behind your stated commitment to serve the Nation and to serve those populations that I've talked about need to be served.

I am here today asking you to put something behind the words and give us what we really need to do the job we can do. We know we can do it. We have proven that we can do it even with cutbacks in funds and we keep on reproducing PSAs in the 1970s because we know that need is out there.

We identify populations. We are aware of the need give us a chance to do what we know how to do and we will do it.

Mr. **Martinez**. I am going to personalize this so that no one on the committee is offended, but what you are telling me is put your money where your mouth is.

Ms. **Valdivieso**. Yes.

[Laughter.]

Mr. **Martinez**. On another angle to this particular situation or to the bill itself, this bill is really developing a link between vocational rehab and education of the handicapped. I have a grave concern that that's simply not enough and that the legislation should be expanded to be pretty much what the California legislation, the "WorkAbility Act," is.

Let me read something to you from a article periodical which is sent out by the—it's called the Special Ed by the California Department of Education. They said thirteen years after Public Law 92-142 was enacted a generation of students with disabilities have graduated from a comprehensive system of mandated educational services, much to their advantage, but now are finding, as adults, they have limited access to postsecondary education or employment.

If we're really talking about preparing these people for life after education, there are things that we need to consider. The transition model in California does several things. It collects follow-up data, which is very important. That's done on a pilot program by local schools. I imagine that will be expanded as the information comes forward and proves to be valuable.

It forms state and local interagency teams to facilitate efficient transition planning. Three, develops individualized transition plans for all special education students by the 9th grade or fourteen years of age. Four counties have been selected to pilot procedures for collecting the follow-up data.

With all of that in mind, my question to you is then do you favor the narrow transition focuses on vocational rehabilitation or a broader program that includes local flexibility with a wide range of services?

Ms. Valdivieso. In response to that, I would like to keep the record open and give me a chance to think about that.

Mr. Martinez. All right. I'm going to ask that of most of the witnesses today because I am trying to make a point here. That I believe that we have to have a wide range of services and much flexibility if we are really going to do as we said earlier put our money where our mouth is and provide something that is really tangible for these particular handicapped students.

Ms. Valdivieso. Well, as clearinghouses, we offer to any requestor—we try to tell them of the wide range of options that are available out there. One of the issues, and this may be in part answer to what you are talking about when you mention four counties—one of the things that we have found is what I call the sophisticated user's of information.

They are families that want to know where good projects are. What states offer the best in resources for their child with a disability.

For instance, you had four counties that were doing great things in California. It would not be unusual for us to get a request from someone in California saying, I've heard of something, can you tell us where that is located? Because parents and families are becoming much more sophisticated in answering these questions.

I think that some of the provisions in H.R. 1013, in your bill, will help us to provide those more—for lack of a better word—more sophisticated users of information to access what is really going on. It is good to provide something. But unless you can inform the public that you are providing it and give them options that will suit their particular lifestyle, then there is no need to offer it.

Mr. Martinez. Thank you very much, Ms. Valdivieso.

Mr. Owens. Mr. Smith.

Mr. Smith. Thank you, Mr. Chairman.

Ms. Valdivieso, I think we've covered the waterfront from the testimony or the questions that I've heard in terms of your need for more money and where this subcommittee is at or where we're headed.

If I could, I have a slightly different horse I am riding if I think the questions have been covered. I'd like to ask you if from your vantage point you would give me your opinion on a couple of other Public Law 94-142 related issues because I think you and your colleagues are in yet another vantage point where you see the world that we have created and not the world that we would have liked to create and the problems as well as the successes.

I guess my question is, other than your own program, and including the discretionary programs but also the state grant program, all of Public Law 94-142, based on your experience, if you just took a few steps back and looked at it, what are the three or four most important changes that need to happen to move us significantly towards the original promise of Public Law 94-142?

I would include in that obviously money, but other than more money, where it ought to go and what it ought to be used on? If you are willing to do that.

I understand it's a little bit different, but my concern is that while we're here, we're going to do our work on this bill, and we're going to get some more money and we're going to move, I think, in the right direction.

But while we do that, my concern is that there are much larger problems that we are not able to confront or are not confronting. I think we are able to confront them if we had the wealth.

I'm interested in just your gut reaction to, if I said you could list three things, beyond your own program, that this Congress ought to make a priority in terms of holding to the commitment we made over a decade ago to special needs children and their parents, what would those three or four things be?

Ms. **Valdivieso**. Okay. Let me put a caveat in my giving an answer to you and also say please let me hold the record open to submit anything that I think haven't touched.

Mr. **Smith**. If you would be willing—excuse me—be willing when you submit it for the record to also send me a copy, I would appreciate it because sometimes that helps a little better.

Ms. **Valdivieso**. Okay. We at NICHCY term ourselves as a complaint bureau. In other words, if things are going fine out there, we don't necessarily hear from people. They don't call us and say things are wonderful here in Peoria. Good job. What they do is they call us with the problems.

I will say that transition definitely, because you have offered an promise of education and promise of education means that there is something after education. There definitely needs to be more linkages with the mechanisms that have been established over the years and to increase those linkages to work more collaboratively in transition and offering the promise of productive life and independent living, definitely would there.

Mr. **Smith**. Excuse me. Would I infer that kind of concern transcends Public Law 94-142 to the Rehabilitation Act——

Ms. **Valdivieso**. Yes.

Mr. **Smith**. [continuing] which will be reauthorized in the future?

Ms. **Valdivieso**. Yes.

Mr. **Smith**. Thank you.

Ms. **Valdivieso**. Another issue has to do with insurance. We are getting more and more requests from people who have infants, toddlers, children, who have severe medical needs. I don't think the real intention of this country is to put someone in poverty if they have a child with extreme medical needs. In many cases, we find from those people who call us that is what is happening.

Insurance options, medical benefits and SSI really needs to be looked at to provide the needed care and services and not to put a family into dire financial stress because they have a handicapped child or a child with disabilities.

I would say the third thing is continued improvement in the services that are now being offered. In other words, nothing would change but to recognize the advances that are being made, to make better use of research, to more effectively train the professionals who are providing services to our nation's children with disabilities.

Ms. **Smith**. That is very helpful and I thank you very much. Thanks for doing what you do. Thanks for being here today.

Ms. VALDIVIESO. Thank you. Would you also, you and Mr. Martinez, you two didn't say that you'd like to visit us. We also want to invite you.

Mr. SMITH. I'm a heck of a visitor.

[Laughter.]

Mr. SMITH. Any time. I could even visit with Mr. Martinez. We could go together, think of that.

Mr. MARTINEZ. Listen, I welcome your visit any time.

Mr. SMITH. Thank you.

Mr. OWENS. Thank you, Ms. Valdivieso.

Ms. VALDIVIESO. Thank you.

Mr. OWENS. Our next panel consists of Dr. Karen Wolffe, Texas Transition Services Task Force; Mr. David Schwartzkopf, the Assistant Commissioner, Division of Rehabilitation Services of the Department of Jobs and Training, St. Paul, Minnesota; Dr. Frank Rusch, Director of Transition Institute, University of Illinois; Mr. Robert Snowden, the Field Coordinator, Project Workability, Sacramento, California.

I think you heard me previously state that we have your written statement and the entire statement will be entered into the record. We would like you to take between five and seven minutes to make an oral statement where you may elaborate, clarify and we will have further clarification during the question period.

We may begin with Dr. Wolffe.

STATEMENTS OF DR. KAREN WOLFFE, TEXAS TRANSITION SERVICES TASK FORCE; DAVID SCHWARTZKOPF, ASSISTANT COMMISSIONER, DIVISION OF REHABILITATION SERVICES, DEPARTMENT OF JOBS AND TRAINING; DR. FRANK RUSCH, DIRECTOR, TRANSITION INSTITUTE, UNIVERSITY OF ILLINOIS; AND ROBERT SNOWDEN, FIELD COORDINATOR, PROJECT WORKABILITY

Dr. WOLFFE. Thank you. Good morning. I am Dr. Karen Wolffe, Chairperson of the Texas Transition Services Task Force.

Mr. Chairman, Members of the Subcommittee, thank you very much for inviting me to comment on behalf of the Task Force concerning the reauthorization of Parts C through G of the Education of the Handicapped Act. My testimony will focus on the transition initiative in Section 626, subsection (i) in Part B.

The Transition Services Task Force is a coalition of consumers, advocates, and service providers. It was organized by volunteers in January 1986. Task Force members were concerned about the lack of transition planning in Texas for students with disabilities.

Large numbers of Texas students were exiting the public school system without life or career plans. In fact many of the students graduating or aging out of special education programs, were ill-prepared to meet the demands of adult living. Texas joined the rest of the Nation as it became aware of the problems after school-leaving of many youths educated under the mandates of Public Law 94-142, the Education for All Handicapped Act of 1975.

In 1987, the 70th Texas legislature passed Senate Concurrent Resolution 123 which formally established the Transition Services Task Force. SCR 123 charged the Task Force with assessing the effectiveness of existing services and recommending models for the delivery of future services.

Twenty-two consumer and advocacy groups as well as fourteen agencies and governmental entities were requested in the legislation to participate on the Task Force. Since 1987, this 40-member organization has wrestled with those charges from the Texas legislature. We researched past and present practices in Texas as well as other states with regard to the provision of transition services.

We looked very closely at national models, including the transition model proposed by the Office of Special Education and Rehab Services in 1984. The OSER model, as you are likely aware, suggests three transition alternatives.

No services beyond those offered to non-disabled public school students. Time-limited services for students with disabilities who need a moderate amount of intervention to move into postsecondary training or work.

Finally, ongoing support services for students with severe disabilities who are in need of services for extended periods of time, possibly for life.

In addition to looking at transition models and programs in progress, the Task Force analyzed transition needs in Texas for students with disabilities. The results of this effort were detailed in a written report to the 71st Texas legislature and submitted February 1989. A copy of our report has been provided to each of you.

Briefly, we made 26 recommendations in four major areas—education, vocational options, community-based services, and case management. We also proposed a transition services model based on our research and development of our legislative report.

We are wholeheartedly in support of the proposed amendment to Section 626 of the Education of the Handicapped Act, which authorizes a new grant authority for joint applications by state vocational rehabilitation agencies and state education agencies to expand transition services.

Stronger linkages between special education and rehab services are essential. In fact, one of the Transition Services Task Force recommendations to the Texas legislature, which was acted upon favorably, was a recommendation to require the negotiation of a Memorandum of Understanding between the Texas agencies involved in the provision of transition services.

Agencies working on the MOU include the Texas Commission for the Blind, Texas Department of Human Services, Texas Department of Mental Health and Mental Retardation, Texas Education Agency, Texas Employment Commission and the Texas Rehabilitation Commission.

It is our sincere hope that in the future these major service providers in Texas will work cooperatively to help student with disabilities transition successfully into employment and satisfying adult lives. We would also like to think Texas agencies would be in an excellent position to cooperatively compete for grants such as described to improve transition services.

Without Federal incentives, it seems the process will occur much more slowly and sporadically than with Federal incentives. In the Task Force report we identified the local schools as the most logical focal point for the provision of services in the early stages of the transition process.

To target resources to school settings, including access to rehabilitation counsellors, makes good sense. Rehabilitation counsellors who have been trained in accredited programs will be knowledgeable in the vocational implications of disability, understand career development and career counselling for persons with disabilities as well as labor market trends and job placement implications.

They should also be informed about job modification and aware of high and low technology available to facilitate job seeking and job keeping for persons with disabilities. Likewise, rehabilitation counsellors in the schools could provide much needed case management for youngsters approaching adulthood.

Counsellors could coordinate with school disciplines and out of school resources, such as private sector employers, local branches of state employment agencies, Job Training Partnership Act, JTPA, training providers, or other postsecondary training providers. No school-based professional is currently responsible for such case management.

The Transition Services Task Force also identified the necessity for early training and information sharing with youth parents and advocates to facilitate the transition process. Self-advocacy training for youth with disabilities was specifically encouraged. Therefore, we applaud the inclusion of these concerns in the proposed new subsection.

Finally, the Task Force is supportive of Subsection 3(b)(9) which ensures that youths who participate in transition services under the proposed amendment would be served under pertinent programs within the Rehabilitation Act of 1973.

In my other official role, as a faculty member of the Department of Special Education at the University of Texas, I have witnesses a number of successful liaisons between special education and vocational rehabilitation. Two projects of particular interest to the subcommittee involved high school students with disabilities in summer work experiences under the auspices of JTPA programs.

Research in the fields of special education and rehabilitation counseling lend strong support to the notion that youth with disabilities who engage in work experiences prior to graduation from the public schools tend to successfully make the transition into adult employment.

Both of these summer work experience programs were possible only through the collaboration of educators, rehabilitation counsellors, and employers. It would be my pleasure to discuss further details about the nuances of these projects if they are of interest to you.

I am likewise willing to answer any questions you might have about the Texas Transition Services Task Force, our report to the Texas legislature, or our plans and aspirations for the future of transition services in Texas.

Thank you for your attention. If I can be of further assistance to you, I can be reached at my University of Texas office or through the Transition Services Task Force Office.

[The prepared statement of Dr. Karen Wolffe follows:]

Good Morning. I am Dr. Karen Wolffe, chairperson of the Texas Transition Services Task Force. Mr. Chairman, Members of the Subcommittee, thank you very much for inviting me to comment on behalf of the Task Force concerning the reauthorization of Parts C-G of the Education of the Handicapped Act (EHA). My testimony will focus on the transition initiative in Section 626, subsection (i) in Part B.

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Since 1987, this 40 member organization has wrestled with those charges from the Texas Legislature. We researched past and present practices in Texas, as well as other States, with regard to the provision of transition services. We looked very closely at national models, including the transition model proposed by the Office of Special Education and Rehabilitation Services in 1984. The OSERS model, as you are likely aware, suggests three transition alternatives: no services beyond those offered to nondisabled public school students; time-limited services for students with disabilities who need a moderate amount of intervention to move into postsecondary training or work; and, finally, ongoing support services for students with severe disabilities who are in need of services for extended periods of time, possible for life.

In addition to looking at transition models and programs in progress, the Task Force analyzed transition needs in Texas for students with disabilities. The results of this effort were detailed in a written report to the 71st Texas Legislature and submitted February 1989. A copy of our report has been provided to each of you. Briefly, we made 26 recommendations in four major areas: education, vocational options, community-based services, and case management. We also proposed a transition services model based on our research and development of our legislative report.

We are wholeheartedly in support of the proposed amendment to Section 626 of the Education of the Handicapped Act, which authorizes a new grant authority for joint applications by State vocational rehabilitation agencies and State education agencies to expand transition services. Stronger linkages between special education and rehabilitation services are essential. In fact one of the Transition Services Task Force recommendations to the Texas Legislature, which was acted upon favorably, was a recommendation to require the negotiation of a Memorandum of Understanding (MOU) between the Texas agencies involved in the provision of transition services. Agencies working on the MOU include the Texas Commission for the Blind, Texas Department of Human Services, Texas Department of Mental Health and Mental Retardation, Texas Education Agency, Texas Employment Commission, and Texas Rehabilitation Commission.

It is our sincere hope that in the future these major service providers in Texas will work cooperatively to help students with disabilities transition successfully into employment and satisfying adult lives. We would also like to think Texas agencies would be in an excellent position to cooperatively compete for grants such as described to improve transition services. Without federal incentives, it seems the process will occur much more slowly and sporadically than with federal incentives.

In the Task Force report we identified the local schools as the most logical focal point for the provision of services in the early stages of the transition process. To target resources to school settings, including access to rehabilitation counselors, makes good sense. Rehabilitation counselors who have been trained in accredited programs will be knowledgeable in the vocational implications of disability, understand career development and career counseling for persons with disabilities, as well as labor market trends and job placement implications. They should also be informed about job modification and aware of high and low technology available to facilitate job seeking and keeping for persons with disabilities.

Likewise, rehabilitation counselors in the schools could provide much needed case management for youngsters approaching adulthood. Counselors could coordinate with school disciplines and out-of-school resources such as private sector employers, local branches of State employment agencies, Job Training Partnership Act (JTPA) training providers, or other postsecondary training providers. No school-based professional is currently responsible for such case management.

The Transition Services Task Force also identified the necessity for early training and information sharing with youth, parents, and advocates to facilitate the transition process. Self-advocacy training for youth with disabilities was specifically encouraged. Therefore, we applaud the inclusion of these concerns in the proposed new subsection. Finally, the Task Force is supportive of subsection (3) (B) (ix), which ensures that youth who participate in transition services under the proposed amendment would be served under pertinent programs within the Rehabilitation Act of 1973.

In my other official role; as a faculty member of the Department of Special Education at The University of Texas I have witnessed a number of successful liaisons between special education and vocational rehabilitation. Two projects of particular interest to the Subcommittee involved high school students with disabilities in summer work experiences under the auspices of JTPA programs. Research in the fields of special education and rehabilitation counseling lends strong support to the notion that youth with disabilities who engage in work experiences prior to graduation from the public schools tend to successfully make the transition into adult employment. Both of these summer work experience programs were possible only through the collaboration of educators, rehabilitation counselors, and employers. It would be my pleasure to share further details about the nuances of these projects, if they are of interest to you.

Mr. OWENS. Thank you.

Mr. David Schwartzkopf.

Mr. Schwartzkopf. Thank you for having me here today. I've only been the Assistant Commissioner of the Minnesota Division of Rehab Services for a little over three months. However, I have been with the Agency for a little over a year. My training is not in rehabilitation. My only experience with rehabilitation has been as a consumer.

I am a computer science engineer by discipline or lack of and I do come out of the private sector, a middle manager in a major corporation and my corporation has put me on loan to the State of Minnesota to do this.

That's just to give you a little bit of perspective on where I am coming from. I live this every day of my life and I lived it years ago before special ed ever existed. Anyway, okay, enough of that.

The Minnesota Division of Rehabilitation Services has been actively involved in transition for at least a decade. Not only transition from education to work but education through our Federal monies in the independent living areas. We have several of our centers for independent living in Minnesota working with local school districts to transition special ed students from school to living environments.

In 1982, DRS special education invoked vocational education from or established the first interagency cooperative agreement. In 1984, that was expanded to nine state agencies and it also included two parent advocate groups. The Minnesota legislature, and by the way the formation of that group resulted in a state transition interagency agreement which has been very active since 1984.

The Minnesota legislature has mandated that either in Grade Nine or at age fourteen that education has to start the transition process from education to work. I think that happened, as I recall, in 1987. That Act caused community transition interagency committees to be established around the state.

Currently, I think there are throughout Minnesota, about 80 of these CTICs, or whatever the acronym is. The focus of all our efforts in Minnesota is on the individual, on community local involvement, and also what the state involvement should be. As a state agency, DRS is not going to go and tell local communities or go tell education what their business is.

We are fairly good at counselling our clients and placing them. We are not going to duplicate efforts that can be done by another group. We are currently in the process of actions in Minnesota, working with the other involved agencies but especially special ed to draft—and I don't to imply that this is going to be a cookbook. That's the last thing it should be.

Some expectations of what the rehabilitation field needs coming out of the education system. That doesn't mean that you start that in a person's senior year in high school. It has to start long before that. I am not sure that age fourteen is even early enough.

We also in Minnesota have other cooperative projects where we will share information. We have one project specifically where my counsellors worked with teachers cooperating with the Department of Special Ed to do in-service training, to serve in an advisory capacity.

What these amendments would do for Minnesota is it would cause us to be more effective to have much more involvement throughout the state. Half of our population lives in Minneapolis-St. Paul area. But Minnesota is about the size of West Germany. Go into some of our rural areas, we are not anywhere near addressing these transition needs that I feel need to be addressed.

In closing, I think its extremely important for agencies to cooperate, to communicate, not to duplicate. I also believe that through the IP process transition can be addressed. I believe that some way we in the rehabilitation profession have the IWRP and I will work with education in Minnesota to somehow put this whole process together to simply things for the people who have to go through it.

By the way, in Minnesota we have a very, very good working relationship between the agencies. Again, I would love to see this legislation come through and I won't hesitate to ask—you know, if your mouth is big enough—I'll take $5 million.

[Laughter.]

Thank you for having me.

[The prepared statement of David Schwartzkopf follows:]

STATE OF MINNESOTA
INTERAGENCY PLANNING AND ACCOMPLISHMENTS FOR SCHOOL TO WORK TRANSITION

The Minnesota Division of Rehabilitation Services has a decade long history of working cooperatively with Special Education and Vocational Education to serve persons with disabilities in transition from school to community living and employment.

Minnesota's first cooperative agreement on transition was signed by the three agencies in 1982. A State Transition Interagency Committee (STIC) was created in 1984 consisting of nine state agencies and two parent and advocacy organizations to develop a more comprehensive agreement, one which focuses on three levels of planning: planning for individuals, community (local) planning and statewide planning.

The purpose of the STIC is to facilitate working relationships among participating local and state agencies to bring about the necessary changes, both within and among the agencies, for the creation of an equitable statewide "transition" service system. Accomplishments to date include:

* The establishment of an Interagency Office on Transition Services in the Department of Education in July of 1985 (by act of the Minnesota State Legislature).
* The completion of a comprehensive State Interagency Agreement to plan (which included implementation activities) by the eleven involved agencies and organizations in August of 1987.
* The passage of state legislation in May of 1987 requiring the development of transition goals and objectives on Student Individual Education Plans by age 14 or grade nine.
* The passage of state legislation in May of 1987 requiring the creation of Community Transition Interagency Committees (CTIC's) statewide. Each CTIC must assess the needs of students and develop a community plan to assure the identified needs are met, including recommending needed changes.
* The provision of a system of staff development (called Project Invest) to ensure that teachers and Vocational Rehabilitation counselors have up-to-date information on interagency planning strategies for transition.
* The addition of four state agencies to STIC which results in increased local agency participation on the CTIC's.
* The direct provision of technical assistance to CTIC's through a project for CTIC's which is sponsored by the Department of Education.
* The involvement of schools and transition-aged students in the Minnesota Supported Employment Project.

- The establishment of 80 Community Transition Interagency Committees, a third of which have formal community needs assessment procedures.
- The development of an Issue Resolution Process for CTIC's and others to use to resolve interagency disputes.
- The continued sharing of valuable agency information that either directly or indirectly impacts how agencies work together and alone.

Our focus is on the individual and his or her needs. Our charge is to develop, implement and evaluate a plan around the needs of each individual with the outcome of integrated employment and community living. These proposed amendments and the state grant program it will fund will allow Minnesota to continue to provide leadership at the community and state levels that will ensure the establishment of a comprehensive and dynamic system of transitional services for years to come.

The proposed grant program would enhance Minnesota's success in coping with some of the following challenges that we plan to address:

- The development of a high school exit document for communication at the local and state levels of anticipated service needs.
- The utilization of a post-secondary follow-up system.
- The creation of additional local programs for student training and job placement.
- The provision of continued training and technical assistance to communities.
- The establishment of a formal evaluation/planning process for CTIC's.
- The development of post-secondary training promotional materials.

Mr. Owens. Thank you.

Dr. Frank Rusch.

Dr. Rusch. Good morning, Mr. Chairman. My name is Frank Rusch and I am the Director of the Transition Institute at the University of Illinois.

The Transition Institute is a federally-funded research institute that focuses upon problems and solutions related to our youth with disabilities as they transition from high school programs to employment and community-related life.

As the Director of the Transition Institute, I have responsibilities that include analyzing the effectiveness of secondary and transitional model programs funded by the U.S. Office of Special Education and Rehabilitative Services. To date, twelve separate competitions have been funded since the passage of Public Law 98-199, Section 626, the Education of the Handicapped Act Amendments of 1984.

Since 1984, 208 model programs have been funded throughout the United States. These model demonstration projects represent the efforts of various public and private educational and private not-for-profit agencies who are implementing new and promising test practices in transition.

The majority of agencies which have received grants include institutions of higher education followed by local and state education agencies, respectively. To date, 26,000 adolescents and young adult have been directly served by these model programs.

The majority of youth who received secondary and/or transitional services were youth with learning disabilities, followed by mental retardation, and finally, mental illness. I would like to point out that 57 model programs have been or are located in the states of New Jersey, North Carolina, California, Texas, Indiana, New York, and Vermont.

One of the Transition Institute's major responsibilities is the identification of model program characteristics that appear to be most effective in assisting youth to find employment or enter into postsecondary educational agencies. We have analyzed the applications submitted for funding and the final reports submitted by these model programs after their grants have expired.

Today, I would like to give a brief description of the model program characteristics that were most often reported by these model programs.

First, planning for transition began well in advance of graduation. Typically as early as the seventh grade. Effective schools identified the transition goals of their students.

Second, a transition of team of school and post-school personnel oftentimes collaborated in the development of secondary and transition services. They meet often. The team consists of rehabilitation, educational, community college and business personnel.

Third, these transition teams in all instances develop an individualized transition plan for each student setting goals for employment and community living and indicating the services needed to obtain these goals. The focus of the plan is more often on topics related to income support, transportation, employment, and housing; less often on traditional academic objectives.

Fourth, the focus of the transition team is typically on integration, including integrated work and study. Integration has emerged as a fundamental educational consideration. The benefits are widespread, including exposing non-disabled persons to diversity.

Fifth, the secondary school curriculum typically emphasizes teaching community-relevant life skills. These include self-help, domestic-related skills, for example.

Sixth, in addition, students were taught to perform life skills in real work, actual community, and future residential settings. The settings that most of us expect to work, play and life in as young adults.

Seventh, employers and the business sector were involved in the identification of potential jobs and cooperated with schools in establishing training programs.

Eighth, the majority of high school model programs reported placing students into jobs that paid wages and provided opportunities for advancement before they graduated from school.

Ninth, oftentimes model programs developed ongoing, in-service personnel preparation programs in an effort to better train educators and to apprise these educators of new and emerging test practices in secondary transitional services.

Additionally, changing Social Security rules and regulations, Department of Labor rules and regulations and so, require teachers to be better informed when planning transition today.

Tenth, and finally, most model programs evaluated their effectiveness. Oftentimes this evaluation included long-term post graduation follow-up assessments. Evaluations include student and parent input.

In reading over Section (f) of your proposed amendments to Section 2626, I urge that you consider these ten model program characteristics and appropriate language in establishing guidelines for state to consider when applying for Federal money.

Relatedly, state agencies should be asked to cooperatively submit applications, including submitting an application with developmental disabilities and vocational education programs as co-applicants in addition to state special education and rehabilitation agencies.

In addition, I believe that it is essential that these state agencies identify existing policies that potentially influence the competitive employment of persons with disabilities and that submitting agencies provide an analysis of how these policies influence transition and transition-related services that lead to employment.

Also, each applicant should address the necessary changes in the political arena that will promote transitional services in the public arena. It is clearer from our ongoing study of states' transition policies, that those states that have passed transition legislation also have identified funding sources that promote transitional services.

Finally, three additional points. First, I urge you to ask state agencies to identify outcomes and quality program indicators in their efforts to evaluate their effectiveness. These outcomes might include the number of students in various disability categories who graduate from school. The percentage who find jobs and the nature of those jobs in terms of wages, benefits and tenure.

Second, to insure widespread dissemination of results, a cooperative agreement should be awarded to an institution of higher education so that these states efforts, processes, and outcomes are studied and the results of these studies are disseminated to other states considering similar proposals.

Third, six years since Public Law 98-199, we still have massive unemployment, as high as 70 percent, and underemployment as high as 20 percent. To our knowledge, only ten percent of the total population of persons with disabilities are working with wages that bear some resemblance to those jobs most of us as youth expected to obtain once we left our respective schools.

Thank you very much.

[The prepared statement of Dr. Frank Rusch follows:]

Transition from School to Work:

Strategies for Young Adults with Disabilities

Testimony by Dr. Frank R. Rusch before the Subcommittee on Select Education, Committee on Education and Labor, U.S. House of Representatives, on Wednesday, February 21, 1990.

Dr. Rusch is Professor of Special Education and Director of the Secondary Transition Intervention Effectiveness Institute at the University of Illinois at Urbana-Champaign.

This testimony is based in part on Rusch, F.R., & DeStefano, L. (1989). Transition from school to work: Strategies for young adults with disabilities. Interchange, Vol. 9(3), 1-2.

Transition from School to Work: Strategies for Young Adults with Disabilities

One of the most important goals of our educational system is to prepare our youth to participate in their communities--to become part of our employment force and make civic contributions. There are numerous options for young adults without disabilities who leave secondary school to make contributions to our society; but students who receive a secondary special education, who are educationally disadvantaged, who are dropouts, or who have limited Enlish proficiency, appear to contribute less, because of fewer opportunities to participate in postsecondary education opportunities and to become meaningfully employed. The Secondary Education and Transitional Services for Youth with Disabilities initiative has a number of goals that address our failure to promote education and employment participation. Recent legislation has stimulated improvement of secondary special education and postsecondary education programs, vocational training, and adult services.

The U.S. Congress has identified the need for transition services for approximately 300,000 youth with disabilities who leave school each year. To begin to solve these problems, recent legislation has authorized support for research in effective transition strategies and the establishment of model demonstration programs to develop and test these strategies. Now in its fourth year, The Transition Institute at Illinois has been studying the problems associated with failure to participate and identifying solutions that better educate and train our youth in transition. As a result of our analysis of over 200 model program applications for federal funding to improve education and employment programs throughout the United States, we have begun to discern an emerging pattern of characteristics that are associated with successful transition from school to work. This article focuses on 10 characteristic strategies that model programs appear to be implementing to influence the successful transition of young adults with disabilities from school to work.

1. Begin planning for transition well in advance of graduation, perhaps even as early as the seventh grade. Theoretically, transition planning should begin as soon as a child with special needs has been identified. By intervening early, teachers, parents, and support professionals can develop a long-term coordinated plan to teach the skills--academic, vocational, and ultimately, employment related--that are necessary to participate in the community.

2. Identify a team of school personnel, adult service providers, parents, and community representatives to collaborate in the development of transition services. Members of a transition team should meet on a regular basis

to determine the student's service needs, to assess community resources, to identify and inform those who will plan for the student's future, and to develop a data and information base from which to plan. Parents should play an active role by informing the team of the anticipated service needs of students who are exiting school. Collaborating community service agencies such as vocational rehabilitation and developmental disability service agencies, state departments of vocational rehabilitation, JTPA agencies, guardianship and advocacy, community colleges, vocational and technical centers, and private industry can serve to eliminate duplicate services and to provide appropriate employment training, job placement, and support on the job.

3. Develop an Individualized Transition Plan.

A primary responsibility of the transition team is the development of the Individualized Transition Plan, a systematic, interdisciplinary, multiagency plan that addresses critical aspects of a student's transition, including employment goals, residential placement, guardianship, transportation, independent living goals, and income support. The implications of transition for the individual and his or her family should be discussed. Both annual goals and short-term objectives should be defined, and the responsibilities for programming and services related to each goal should be delegated to the appropriate member of the team, typically a high school teacher, counselor, or vocational development specialist.

4. Focus on integration and especially on integrated employment. Students with disabilities must be prepared to live and work in an integrated world--the community as we know it. Integrating these students early in the transition process will expose them to the vocational and social demands and the expectations for youth who are working for the first time. Integration includes participating in age-appropriate activities, meeting peer expectations, and avoiding segregated activities, facilities, and groupings. Learning to use public transportation and community resources like the public library and parks contributes to the student's community participation.

5. Teach community-relevant living skills.
A major cause of adjustment problems among adults with disabilities is the failure of high school programs to prepare students to live independently while they are employed in their own communities. To develop a curriculum that is community referenced, school personnel must assess local housing markets and then determine the specific self-help, domestic, and transportation-related skills that are required for employment success.

6. Teach basic, necessary living skills to students in real employment, community, and residential settings.

Students need to learn to respond to the demands of actual work, community, and residential settings. Skills should be taught to target students in these natural settings; students should be taught to use public transportation by actually riding on buses and trains, should learn to shop in supermarkets and department stores, and should receive at least some employment training outside the classroom and in an integrated workplace.

7. Include employers, employees, and families in searching for jobs for students with disabilities. Locating jobs in which to place students should be a high priority for high schools. Transition teams should work with local civic organizations, private industry councils, and state vocational rehabilitation departments to identify employment opportunities in local communities. Parents can use their personal networks to identify potential employment opportunities for their children and others. Employers should be consulted extensively concerning the placement of students into integrated work settings. Job development can be enhanced by using recognized marketing strategies such as videotapes and direct mailing in addition to developing personal contacts in the business community.

8. Place students into real jobs that provide opportunities for employee advancement. High schools must assume responsibility for placing students into jobs well

before graduation, and at least by the time the student turns 18. High school and community resources should be coordinated by the transition team to provide the support that students need to make the adjustment from being a student to being an employee.

9. Develop an ongoing inservice personnel training program. The shortage of well-trained personnel is a major problem for school-to-work transition efforts. A well-coordinated transition effort should include inservice training so that transition personnel from administrators to transition specialists can be kept informed about issues that may affect their clients. For example, it is extremely important for those who advise young adults to be well informed about eligibility requirements for SSI and SSDI, recent legislation that might affect transition efforts, tax implications of certain transition decisions, and changing norms and patterns of employment for these young people.

10. Evaluate programs and outcomes in order to improve the transition process. Evaluation is essential to the growth of every organization. To assess the effectiveness of transition planning and implementation, we must monitor the progress of former students in terms of both qualitative and quantitative outcomes. Transition program staff can collect information about types of jobs held, wages earned, benefits, hours worked, job tenure, employer performance ratings, and

the extent to which employers, employees, and parents are satisfied with the results of the transition process. The nature and extent of community integration and satisfactory independent living arrangements, and the identification of important program elements are additional indicators of program effectiveness.

Future Directions

1. Emphasize the importance of local transition planning. Successful movement from school to work and independent living require different supports for different people in different circumstances. No generic strategy of staff development, interagency collaboration, service delivery, evaluation, or funding will be appropriate in all localities. For this reason, the field should resist the temptation to identify transition with any one strategy, but, instead, should identify effective strategies for particular circumstances. In this manner, progress toward the goal of employment and improved quality of life for persons with handicaps requires that communities identify major problems with service availability and quality of work in their locality and collaborate to produce solutions to their unique problems.

2. Include all disabled people in transition planning. Previous efforts to link school and work have emphasized

collaboration among vocational rehabilitation, vocational education, and special education, and consequently have focused on students with mild educational handicaps. Employment and independent living outcomes are equally important for all groups, and one's efforts should reflect this. If transition is to be available to all students with disabilities, state mental retardation agencies and postsecondary education agencies must become participants in the transition process.

For transition to succeed, educators, adult service providers, and the private sector must embrace the notion that all individuals have the right to learn, work, and live in the most integrated setting possible. Recent changes in adult service legislation, and jointly funded efforts by OSERS and the Rehabilitation Services Administration (RSA) should help to communicate this attitude to the field.

3. Emphasize transition strategies without formal services. Not all transition requires publicly funded services. In the most effective transition, a student simply graduates into a job without relying on postschool services. Formal services can help many persons find suitable employment, but many persons with handicaps may achieve this result equally well through family and friendship networks and experiences with local employers while in school. Educational programs, therefore, must not preclude the

development of social networks through segregation from nondisabled peers or removal from the local community for services. The more that appropriate integration and work experience are promoted by transition programs, the more opportunities persons with handicaps will have to secure available jobs without undue dependency on social services.

4. Evaluate and publicize what works in transition. Although there are differences in transition across communities, there are also shared problems. Effective generalizable procedures and programs for dealing with those shared problems are critically needed so that future programs can cumulatively build on the most successful approaches. To this end, there is a need to design research studies to document the efficiency of various transition strategies.

Conclusion

In conclusion, 5 years after its start, the transition initiative offers both excitement and frustration to those engaged in furthering its goals. It is becoming clear that the transition period can have a significant impact on the overall quality of an individual's adult life. Instead of a transfer of responsibility of services, transition has come to be characterized in terms of independence, participation and integration, community living status, and employment. There is tremendous activity and enthusiasm among those working in and being served by transition programs. These feelings helped to provide momentum to overcome obstacles that threatened the beginning of the initiative. Additional momentum is needed, however, to maintain the vitality of the concept in the second phase of the initiative, as implementation becomes more widespread and as transition services become institutionalized as part of the special education and adult service delivery system.

Mr. **Owens**. Thank you.

Mr. Robert. Snowden.

Mr. **Snowden**. Mr. Chairman and members of the Committee, I am Robert Snowden, Field Coordinator for WorkAbility One, a California State Department of Education operated but locally controlled transition program for 787 high schools. I am also a former Project Director for a San Francisco Bay Area WorkAbility site.

In preparation for this testimony, I didn't originally include in the written statement more background information on myself or on the program. What we, in California, try to do is actually focus on the language itself, current language of the amendments. But here I would like to add a little more background.

I began twenty years ago in the field of education working with disabled disadvantaged youth. I was coordinator of a program while in college working at that time with Neighborhood Youth Corps, which currently is your JTPA programs. It was during that time we recruited disadvantaged minority students to the college campus and provided a program for them that involved working and taking classes, college courses.

Our intent of purpose or goal at that time was to convince them to continue their education. It was at that time that I discovered that there was a large disproportion of minority students that were labeled EH at that time. In working with those students, by providing counselling, by providing tutoring, many of those students were very successful in our programs and many of those students went on to college.

This was way before the EHA. This was way before the Transition Initiative of 1983. It was after this experience that I decided to go into the special ed field. During that time, I was also able to participate in a program that was unique. It was a team-taught multi-handicapped class working with severely handicapped students of high school age.

It was during that time that practices that are inherent in your transition activities—that's where I got my first experience. It was during those times were I made contact with other agencies besides educational agencies. It was during that time that we collaborated with vocational education as well as regular education.

It was during that time that we gave students work experience by placing them in jobs on campus as well as off campus. During that experience--and this is prior to when this whole concept of transition came about—we were successfully placing kids in the community.

I went on and received other credentials. My LH credential Learning Handicap, my Resource Specialist credential. I started working with other populations of students. It was from my original experience that I brought this idea of vocational education and focusing on transition services.

It was at that stage that I went out looking for model programs and support as far as funds to help me implement a program at my high school cite. That's were I came in contact with Project WorkAbility. One thing that attracted me to Project WorkAbility was the networking. The working together of professionals in the field that really supported one another.

That networking started with just two sites in the state of California in 1981. It evolved to eventually 34 sites. There was an adoption process when the state level people secured more funds to support the program and expanded to 64 sites. Then it doubled the next year to 120 sites. Currently we have 157 WorkAbility I programs in the State of California.

In addition to that, we have expanded and added adult service WorkAbility programs. We have a WorkAbility II and a WorkAbility III. WorkAbility II serves adults, those that are 18 and older; and WorkAbility III serves people who are attending community colleges.

When addressing this language, as a group we have committees. One is a state level advisory committee on WorkAbility which includes eight regional managers, myself, and a representative from Vocational Rehabilitation and a representative from Work Experience. We also a committee that's called a Government Relations Committee that works very active in talking with the legislators and trying to increase base funding levels.

I met with the one committee, the Government Relations Committee, to discuss the current language, and collectively, we, as a group, came up with the points that are included in my written testimony.

We started off by saying that WorkAbility applauds the intent of the amendment to enhance transition services to youth with disabilities. Our state leaders at the same time, however, are disappointed that since Public Law 98-199 and after seven years of applied research there is no mandatory transition language in Public Law 94-142 on the horizon. WE had hoped that individual transition plans, ITPs, and student graduate follow-up would also have been mandated by now.

In relation to the language before us, this testimony represents the joint comments of local WorkAbility leaders from all the programs. We have three key points that we would like to see included in the language.

Number one, that EHA transition services are extended to all disability groups as defined under Public Law 94-142. Number two, that current language is broadened to include other adult service providers in addition to vocational rehabilitation and the Job Training Partnership Act. Number three, that language identifies specific transition outcomes for disabled students and program success is based on student/client graduate outcomes.

Regarding Point Number 1, that EHA transition services should be extended to all disability groups as defined under Public Law 94-142, the language in the present draft does not project the equitable participation of all students with disabilities in the states.

Because of differing eligibility criteria and resource mandates, a joint agency VR and SEA application for these funds would prohibit access to transition services for a percentage of disabled youth. If you hope to serve all students with an individual program, the current language is exclusionary.

Also, since educational services have an entitlement for students with handicaps and VR services are not for the same population, a built-in policy gap is forged.

We know that virtually all special ed students are at risk in employment. If they have an educational handicap in September, they'll probably have an employment handicap as they graduate in June. To ensure equitable zero reject participation, consider language that would match Public Law 94-142 handicapped condition public count as transition services participation marker. A similar state standard can be used for ethnic distribution.

Current language should also broaden the target age of the population to include all school age youth and adult students with disabilities in the 14 through 21 age group. WorkAbility adheres to the philosophy that transition services do not begin in the junior and senior year. Because of the high dropout rate for this population, 11th or 12th grade may be too late. There are pre-vocational preparation activities and work exploratory activities that should be addressed prior to placement.

Point Number 2. Current language in the amendment is broadened to include adult service providers in addition to VR and JTPA.

Current language should be broadened by specifically mentioning other state agencies such as those serving developmentally disabled and the mentally ill. State agencies pay more attention to legislation if they are named. Also, including these agencies will reinforce the total participation of the Public Law 94-142 student population.

We also recommend that the language be changed throughout the amendment to include naming the needed partners within the state education system. These partners would include vocational education, special education, general education, adult education, and at risk educational programs.

Further, we suggest aligning all agencies with cooperative agreements or memorandums of understanding at the Federal, state and local levels, and to push financial agreements when possible. WorkAbility is a linkage model which coordinates state, local, public and private employability services for disabled youth.

Point 3. Current language should identify special transition outcomes for disabled students and evaluate program success based on student/client graduate outcomes.

Transition is all about accountability. State participation and subsequent determination of program effectiveness should be based on models that target measurable combinations of student service interventions and student/graduate outcomes. In my written statement I have listed examples of those.

Research is clear that program effectiveness must be based on outcomes. This critical focus for transition is not clear and certainly not strong enough in the amendment's language. It does not seem presumptuous and seven years after the enactment of Public Law 98-199 to expect states to take advantage of constructive research around transition and to focus their strategies and service delivery systems on results to the student client.

Agency mission, participation, regulation and resources differ at our state and local level. By focusing on student/client community based outcomes, a common vision is possible. Strategies and service delivery systems are then secondary challenges. All participants, students, agency personnel, parents, guardians, employers, legislators and total community can understand and get behind community oriented outcomes for all citizens.

Targeting meaningful employment and a quality adult life and measurable outcomes as successful transition allows us to affirm our common vision and work on how to get there.

Mr. Chairman and members of the committee, I thank you again for the opportunity to provide this testimony. In conclusion, I believe that based on the American history of discrimination, the eligible population in this amendment, as addressed in our Point 1, is discretionary and must be protected and clearly stated by you.

I believe that local control should hold for on how and what agencies participate and how and what strategies and interventions are brought into play as discussed in our Point 2. I believe, based on the lessons of research, all Federal and state transition efforts must be judged on how far students with disabilities have moved forward in our communities.

Thank you.

[The prepared statement of Robert Snowden follows:]

TESTIMONY OF ROBERT SNOWDEN
REPRESENTING PROJECT WORKABILITY OF CALIFORNIA
BEFORE THE SUBCOMMITTEE ON SELECT EDUCATION
U.S. HOUSE OF REPRESENTATIVES
ON S.626(i)B OF THE HANDICAPPED AMENDMENTS OF 1990
FEBRUARY 21, 1990

Mr. Chairman and Members of the Subcommittee:

I am Robert Snowden, Field Coordinator for WorkAbility I, a California State Department of Education operated, locally controlled, transition program for 787 high schools. I am also a former Project Director for a San Francisco Bay Area WorkAbility site.

Project WorkAbility is a state and local interagency partnership program. The model was developed at the state level to encourage interagency cooperation among the California State Department of Education, Department of Rehabilitation, and Employment Development Department, and the business community to solve the problem of high unemployment for disabled youth. Since its implementation, WorkAbility has been supported by regular education, vocational education, adult agency providers, professional associations, and educational organizations. WorkAbility is endorsed by major corporations including Marriott, Sears, Safeway, Carl Karcher Enterprises and Pacific Bell.

WorkAbility applauds the intent of the amendment to enhance transition services to youth with disabilities. Our state leaders at the same time, however, are disappointed that since P.L. 98-199 and after 7 years of applied research, there is no mandatory transition language in P.L. 94-142 on the horizon. We had hoped that Individual Transition Plans (ITP's) and student/graduate follow-up would also have been mandated by now.

In relationship to the language before us, this testimony represents the joint comments of local WorkAbility leaders from all the programs (see attachment B). We have three key points that we would like to see included in the language:

1) EHA transition services are extended to all disability groups as defined under P.L. 94-142.

2) Current language is broadened to equitably include other adult service providers in addition to Vocational Rehabilitation (VR) and the Job Training Partnership Act (JTPA); and

3) Language identifies specific transition outcomes for disabled students and program success is based on student/client graduate outcomes.

Point #1

EHA transition services should be extended to all disability groups as defined under P.L. 94-142. (Section 1401,Title 20 of the U.S. Code).

The language in the present draft does not protect the equitable participation of all students with disabilities in the states. Because of differing eligibility criteria and resource mandates, a joint agency (VR/SEA) application for these funds would prohibit access to transition services for a percentage of disabled youth. If you hope to serve all students with an Individual Education Program, the current language is exclusionary. Only a percentage of special education students would qualify for VR services using the current language in the states. Also, since educational services have an entitlement for students with handicaps, and VR services are not for the same population, a built-in policy gap is forged. We know that virtually all special education students are "at risk" in employment. If they have an educational handicap in September, they probably will have an employment handicap as a graduate in June. To insure equitable, zero reject participation, consider language that would match P.L. 94-142 handicapping condition pupil count as a transition services participation marker. A similar state standard can be used for ethnic distribution.

Current language should also broaden the target age of the population to include all high school age youth and adult students with disabilities in the 14 through 21 age group. WorkAbility adheres to the philosophy that transition services do not begin in the junior or senior year. Because of the high dropout rate for this population, 11th or 12th grade may be too late. There are pre-vocational preparation activities and work exploratory activities that should be addressed prior to placement.

Point #2

Current language in the amendment is broadened to equitably include adult service providers in addition to VR and JTPA.

Current language should be broadened by specifically mentioning other State agencies such as those serving developmentally disabled and the mental ill. State agencies pay more attention to legislation if they are named. Also, including these agencies will reinforce the total participation of the P.L. 94-142 student population. We also recommend that the language be changed throughout the amendment to include naming the needed partners within the state education system. These partners would include vocational education, special education, general education, adult education, and "at risk" educational programs. Furthermore, we suggest aligning all agencies with cooperative agreements or memorandums of understanding at the federal, state and local levels and to push financial agreements when possible. WorkAbility is a "linkage model" which coordinates state, local, public and private employability services for disabled youth.

Point #3

Current language should identify specific transition outcomes for disabled students and evaluate program success based on student/client graduate outcomes.

State participation and subsequent determination of program effectiveness should be based on models that target measurable combinations of student service interventions and student/graduate outcomes. Examples of successful outcomes could be:

I. Student Process Goals
    A. Students will achieve a minimum of two (2) community-based paid job try-outs in each of the last two years in school.
    B. Participation in an Individual Transition Plan (ITP) by age 14 or the 9th grade.
    C. Other examples
II. Graduate Outcome Goals
    A. Increase in successful employment rates across handicapping conditions.
    B. Increase in quality of employment placement as defined by benefit package, promotability, integration with non-handicapped workers, job satisfaction index, etc.
    C. Other examples

Research is clear that program effectiveness must be based on outcomes, rather than process indicators. This critical focus for transition is not clear and certainly not strong enough in the amendment's language. It does not seem presumptuous 7 years after the enactment of P.L. 98-199, to expect states to take advantage of constructive research around transition and to focus their strategies and service delivery systems on results to the student/client. Agency mission, participation, regulations, and resources differ at our state and local levels. By focusing on student/client community based outcomes, a common vision is possible. Strategies and service delivery systems are then secondary challenges. All participants: students, agency personnel, parents/guardians, employers, legislators, the total community, can understand and get behind community-oriented outcomes for all citizens. Targeting meaningful employment and a quality adult life in measurable outcomes as "successful transition" allows us to affirm our common vision and work on how to get there (e.g. eligibility, resources, preferred agency delivery systems).

CONCLUSION

Mr. Chairman and members of the Subcommittee, I thank you again for the opportunity to provide this testimony on S. 626(i)B. In conclusion, I believe, based on our American history of discrimination, the eligible population in this amendment as addressed in our point #1 is not discretionary and must be protected and clearly stated by you. I believe that local control should hold forth in how and what agencies participate and how and what strategies and interventions are brought into play as discussed in our Point #2. I believe, based on the lessons of research, all federal and state transition efforts must be judged on how far students with disabilities have made forward strides in our communities.

Mr. **Owens.** Thank you. I think I hear a lot of basic agreement on the direction that we've taken from Mr. Snowden's testimony. Do you think there's a lot of clarifications and additions we should also undertake?

I just want to note for the benefit of those of you who might wonder where our colleagues disappeared to, there is an historic joint session taking place now where the current President of Czechoslovakia is addressing the Senate and the House. Unfortunately, these things can't always be scheduled ahead of time and we didn't know that it would be taking place at the time this hearing was scheduled. We will continue.

Dr. Wolffe, how much of your report is being implemented as of now in Texas?

Dr. **Wolffe.** Six of our recommendations have been implemented. The development of the MOU mandate for transition planning, those other two major things that have happened as a consequence of our report.

Mr. **Owens.** Will the initiatives that are being taken in our legislation enhance that process or hinder it in any way?

Dr. **Wolffe.** I think it would enhance the process. I feel as if we have a start, but I think that everything at present is hinging on state monies and sometimes those issues don't resolve themselves very well until there's a mandate from the Federal Government.

I think that with some mandates from the Federal Government that would push us forward faster. I think that with some financial incentives that we would see cooperation more quickly at the state level between our agencies.

Mr. **Owens.** Dr. Schwartzkopf, I think you said that Minnesota has had a transition component required for some time now?

Mr. **Schwartzkopf.** If my memory serves me correctly, in 1987 the Minnesota legislature passed legislation which requires either age 14 or ninth grade that special ed children start being—that the transition start being addressed at that point. That is mandated now. But prior to that—I think the reason for that was the establishment of the State Transition Interagency Committee three years prior to that.

Is it working? Yes. Is it working as well as we all would like to see? No. We do have limited funding. We have many priority issues at each agency. As I said a minute ago, I don't feel that my agency should go in and tell special education how to do their job. What my agency can do is work with special education and voc ed so that they know what outcomes I need when I get these kids.

I draw the analogy of a building. It's oftentimes more cost-effective to build a building with all the bells and whistles, with whatever, rather than to build it and then retrofit later. My agency could save money if the transition process was really working. It isn't that we don't have the cooperation—we do—we just don't have the resources to totally implement.

Mr. **Owens.** Well, we may submit some additional questions to you later. It's our impression that you have a very good participatory cooperative process going but, still, there's no accountability, no mandate that you have a postsecondary follow-up system.

Dr. **Schwartzkopf.** Correct. That's the thing that these amendments could——

Mr. Owens. You need a mandate yourself.

Dr. Schwartzkopf. Yes.

Mr. Owens. You need a mandate and you need the resources to go with it.

Dr. Schwartzkopf. Correct.

Mr. Owens. Good. Dr. Rush, after having done an analysis of 200 model demonstration projects you've shared with us ten characteristic strategies for successful transition programs. Is there a sufficient number of successful model transition projects that states can already refer to that will help in setting up their own transition projects, or do you feel that we need to fund some more demonstration projects?

Dr. Rush. I believe that at this time we would benefit from further demonstration.

Mr. Owens. Why aren't these 200 good enough?

Dr. Rush. When we take a look at the different generations of the funding cycle, we take a look, for example, at the first generation of model programs that were funded. Essentially the problems that these model programs address look very much different than the kinds of problems and ultimately the solutions that second and third generation model programs have addressed.

Now, seven years later, we know so much more, in fact, than we knew when Public Law 98-199 was initially launched and money was made available for these model programs. Initially we had problems that related to who should cooperate. Now we have problems that relate to how they should cooperate. I think in the future we'll have solutions to not only how, but I think some best practices that are more diversified than, for example, focusing on just employment. Also focusing on the other meaningful outcomes that the school process rejects.

Mr. Owens. You state strongly and clearly the recommendations for components of a successful transition program. What would be your comments on how we could enforce some mandates and hold states accountable for putting these things in place?

Dr. Rush. Well, I think two-fold. I think when we're talking about states implementing transitional services, I think that we have to talk about what it is specifically that they are implementing and hold them accountable by way of measuring the extent to which these transitional services are indeed in place. Then, second, and most importantly, we have to take a look at the outcomes of the transition process.

As I concluded my testimony, I indicated that today, seven years later, we still have massive unemployment or underemployment as a result of Public Law 98-199. Not much has changed. If you are a person with a disability in the United States and you happen to be in a high school, you have a very uncertain future ahead of you. Most likely underemployment or unemployment.

Mr. Owens. Thank you. Mr. Snowden, your statement reflects an impressive amount of hands-on involvement. You're on the firing line and have done and learned very practical kinds of things. I think you said you had 150 sites.

Mr. Snowden. Right. But those sites include not only districts but they include county office programs. The include SELPAs. The include a variety of different types.

Mr. **Owens**. What is the largest number of people who have been enrolled to participate in these programs at one time?

Mr. **Snowden**. Last year we only had 146 sites.

Mr. **Owens**. Does a site represent one individual?

Mr. **Snowden**. No. It varies.

Mr. **Owens**. You had 146 sites. What number of people did you have working there?

Mr. **Snowden**. Working for the WorkAbility program?

Mr. **Owens**. Yes.

Mr. **Snowden**. As far as staff? The one unique thing about the WorkAbility is the flexibility and that the state gives money to these sites through a competitive grant process. it's up to the individual site to actually determine what their needs are and how they will spend and use that money.

Most of the money actually is flow-through money. It goes directly to students for student wages. Whereas the money is used as an incentive to pay employers—actually, $100 is the average—to get the foot in the door for these students. There are many of those jobs that turn into permanent type positions.

I would say—and it's a guesstimate as far as staff—that there are about 600 people out there working. I'm trying to average how many per site are out there working. Last year we served approximately 20,000 students.

Mr. **Owens**. That was the number I was trying to get at.

Mr. **Snowden**. Right. Of those 20,000—and that included pre-employment service as well as placed employment—we placed approximately 10,000 students into competitive employment positions. Many of those students will receive continued service. Sometimes the preparation takes longer than a school year. Many of those students I've worked with two or three years prior to placement into competitive employment positions.

Mr. **Owens**. It's very impressive. You are based in Sacramento?

Mr. **Snowden**. Yes.

Mr. **Owens**. I want to thank you and thank the other members of the panel for a very informative set of presentations. Thank you very much.

Again, the gentlemen who are not here might submit questions to you in writing later on.

The next panel consists of Dr. Kevin Dwyer testifying on behalf of the National Association of School Psychologists and Dr. Irwin Hyman testifying on behalf of the American Psychological Association.

Before they begin, I'm going to declare a two-minute recess.

[Recess.]

Mr. **Owens**. Please be seated.

You may begin, Dr. Dwyer. Your entire testimony in writing will be entered into the record. I would like for you to take between five and seven minutes. When you hear the bell ring, your five minutes are up. But don't let that frighten you; you may continue.

Dr. Dwyer.

STATEMENTS OF KEVIN P. DWYER, NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS AND IRWIN A. HYMAN, THE NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS AND THE AMERICAN PSYCHOLOGICAL ASSOCIATION, ACCOMPANIED BY STEVEN ALLISON AND SHARON ALLISON

Dr. DWYER. Thank you, Mr. Chairman. I wish to thank you, Chairman Owens, for proposing this amendment and the committee for giving us the opportunity to speak on this issue of abolishing corporal punishment for students with disabilities.

I'm speaking today representing the National Association of School Psychologists, which supports this amendment, and the 30 organizations that also support this amendment that are listed in the testimony. There are 29 listed there but I got another one yesterday, The Federation for Families for Children's Mental Health, which also signed no to this.

What I'd like to do, Mr. Chairman, is let Dr. Irwin Hyman give the background and then have Steven and his mother talk about their testimony, if that is permissible.

[The prepared statement of Kevin W. Dwyer follows]

Testimony of

Mr. Kevin P. Dwyer, NCSP
National Association of School Psychologists
8524 Carlynn Drive
Bethesda, MD 20817

to the

Subcommittee on
Selected Education

Concerning the Amendment to Prohibit
the use of Corporal Punishment on
Children with Disabilities

February 21, 1990
2261 Rayburn House Office Building
Washington, DC 20515

I wish to thank you Chairman Owens for proposing this amendment and the committee for giving us the opportunity to speak to the issue of abolishing corporal punishment for students with disabilities. I am speaking today representing the National Association of School Psychologists in its support of the amendment to prohibit the use of corporal punishment on children with disabilities. This amendment is supported by:

- American Academy of Child and Adolescent Psychiatry
- American Association on Mental Retardation
- American Association of University Affiliated Programs
- American Association for Counseling and Development
- American Occupational Therapy Association
- American Psychological Association
- American Speech-Language-Hearing Association
- Association for Children with Learning Disabilities
- Association for Retarded Citizens
- Child Welfare League of America
- Children's Defense Fund
- Council for Children with Behavioral Disorders
- Epilepsy Foundation of America
- Mental Health Law Project
- National Association of Protection and Advocacy Systems
- National Association of Social Workers
- National Association of Pupil Personnel Administrators
- National Head Injury Foundation, Inc.
- National Easter Seal Society
- National Education Association
- National Education Association Caucus for Educators of Exceptional Children
- National Coalition for the Prevention of Child Abuse
- National Council of State Consultants for School Social Work
- National Association of School Nurses
- National Association of School Psychologists
- National Mental Health Association
- National Parent Teacher Association
- The Association for Persons with Severe Handicaps
- United Cerebral Palsy Association

Many school systems across this nation hold to a traditional belief that corporal punishment, "the intentional infliction of physical pain upon a student as a disciplinary technique," is a warranted and effective technique for controlling children. This conclusion is based upon the observation that for a short period of time, immediately after corporal punishment is administered, the undesired behavior decreases - or, at least, is no longer observed.

The practice of corporal punishment has been outlawed in 19 states and nationally by almost all industrial countries except the United States and South Africa.

Corporal punishment is not permitted in our prisons, juvenile detention centers or public institutions since there it would be viewed as a violation of the 8th Amendment to the Constitution which prohibits "such forms of cruel and unusual punishment."

Research has shown that the long-term effects of corporal punishment are negative rather than positive. It does not work and there are proven methods for changing behaviors that do work (NASP, 1986). Corporal punishment does not change problem behaviors or teach effective behaviors. We know that corporal punishment lowers self-esteem. We know that children who are physically punished in school frequently end up with a negative attitude toward school and toward themselves (Bongiovanni, 1979). Furthermore, corporal punishment models that violent solutions to problems are sanctioned by persons in power. Its use may increase the likelihood of violence and aggression as a means for students themselves to solve their problems (Bellak & Antell, 1979). Research has shown that when corporal punishment is sanctioned by the government - by school systems - teachers are less likely to learn or use the more effective methods of modeling and teaching children behavior control.

We all recognize that corporal punishment or the authorized use of violence upon children in school stems from tradition based on the English common law concept of "in loco parentis" that gives teachers parental authority to punish the children they teach and from the saying, "spare the rod and spoil the child." However, these traditions have been disproven by the research on child abuse that shows that children who were frequently physically punished with the rod are more likely to become disturbed adults and abusers themselves. Their lives have been truly "spoiled." Corporal punishment, like child abuse can have long-term harmful results (Messina, 1988).

All children must be disciplined, socialized, and taught to behave and problem solve effectively. Many students with disabilities need additional help and accommodations in learning these important social skills. Some of these children are more vulnerable to receiving corporal punishment because their disability results in behaviors which are different from social norms. Their different behaviors are seen by the untrained as defiant behaviors. Children with attention problems, poor motor coordination or poor listening comprehension may appear to be defiantly not paying attention, or not writing neatly or not listening to the teacher. Some children with disabilities may not be cognitively neurologically or emotionally able to carry out the correct behavior required by the teacher to avoid corporal punishment.

Some children with disabilities already have self-esteem problems that can be compounded by the humiliation, pain and failure that corporal punishment means to them. As one student said to me, "I get paddled because I'm a retard and I do bad things." Corporal punishment has taught this boy that he is retarded, which he is not and that his behaviors are bad, which they were not. He actually has epilepsy and his frequent stares-into-space that resulted in corporal punishment were his seizures. His intelligence was normal but depressed and he was misplaced in a class for students with less academic potential because he could not work at a normal pace in the mainstream.

Speaking of mainstreaming, we know that corporal punishment makes mainstreaming more difficult for these children. The use of corporal punishment has been shown to increase alienation from classmates and anxiety in the recipient (Hyman & McDowell, 1977).

The sad addition to this problem of the use of corporal punishment on students with disabilities is that it is used arbitrarily and not as a last resort. Many of the behaviors that are punished are ill-defined including "disrespect for teacher, inappropriate classroom behavior, refusal to work, immature behavior and back talk" (Rose, 1983).

Is corporal punishment a problem for students with disabilities?

Until the U.S. Supreme Court upheld the use of corporal punishment and stated that it was not a violation of constitutional safeguards against cruel and unusual punishment (Ingraham v. Wright, 1977) many lower courts ruled that corporal punishment was forbidden for persons with disabilities, particularly in care programs and institutions (Davis v. Watkins, 1974, Horacek v. Exon, 1975, N.Y. State ARC v. Carey, 1975, Wyatt v. Stickney, 1972). Ingraham v. Wright made it clear that the courts felt that even the disabled, under 18 and in school were eligible for corporal punishment. All other disabled persons were not eligible. Seeing this lack of logic, the state of California banned the use of corporal punishment for children in special education long before it was abolished for all school children in that state.

Data on who among the disabled receives corporal punishment.

Data on the use of corporal punishment on students in special education is not gathered by the Office of Civil Rights (OCR) or by any other Federal agency. However, OCR does report the general use of corporal punishment. Their most recent data, published in 1986, reported that 80% of the recipients of corporal punishment in schools are males and that Black, African-American students are twice as frequently the recipients of corporal punishment as their counterparts in all other ethnic groups reported. The OCR data reported that 22% of the Black students in Arkansas received corporal punishment in 1986.

Males and African-Americans are also disproportionately found within the special education population (OCR, 1986). Therefore, it is not presumptuous to conclude that special education students receive corporal punishment at a significant rate.

The OCR report stated that corporal punishment was reported to their office to have been used about 1,200,000 times in one school year. We also know that about 11% of the school population received special education under EHA that year. Therefore, we might assume that corporal punishment was used about 132,000 times on children with disabilities. Some believe that corporal punishment would be expected to be used more frequently on "exceptional children." In one historical survey of the use of corporal punishment on children with disabilities, Smith stated, "there is an inherent danger that ... exceptional children may be more frequently and severely punished than nonhandicapped youngsters." (Smith, Polloway & West, 1979).

Demographic study of corporal punishment in special education

Rose (1983), in a study of the use of corporal punishment on "mildly handicapped students" in special education found that among school principals that used corporal punishment virtually all (98%) used it on special education students classified as learning disabled and mentally retarded in their schools, 26% of the junior high principals in that category used corporal punishment on special education students 6 or more times per month. There were other specific regional differences reported in this survey of 324 schools in 18 states. Reports from the Mountain state region showed the highest frequency of use with 25% of the schools reporting that they used corporal punishment more than 11 times per month on special education students. In fact, 50% used corporal punishment 11 or more

times a month or 110 times per year on children classified as retarded. This finding is particularly significant in the light of research that shows that these children with retardation, "encounter few successful experiences in school" (Zeigler, 1973) and are more likely to model the behaviors of authority figures (Altman & Talkington, 1971).

In this country, if you are lucky enough to live on the Pacific coast or in the Northeast and you are a child with disabilities, you have no chance of legally being corporally punished. But if you live in many other regions of this nation, you have the chance of being paddled for almost anything that the person in power decides is "misbehavior." Federal laws have frequently been written to protect the rights of persons when their state of residence permits a violation of those rights. This regional difference in the use of corporal punishment on children with disabilities can be rectified by the Chairman's proposed amendment.

Do children with disabilities need this national protection from corporal punishment?

Some have claimed that the law already protects children receiving special education from corporal punishment. The parents and concerned professionals may use the Individual Educational Program plan to make sure that corporal punishment is not used. Yet, clinical evidence tells us that this prohibition does not work and that it places unreasonable demands upon the parent to monitor the program. If corporal punishment is used, there is no sanction upon the punisher. The four year old with Downs Syndrome from Magnolia Texas who says "spank" when someone mentions his teacher's name has such an IEP restriction.

The Office of Civil Rights stated that corporal punishment cannot be used on children with disabilities if the behavior is caused by the disability. Citing Honig v. Doe regarding suspension and expulsion limitations as the rationale is again placing great burden upon the parent and setting up a scenario for a costly system of appeals and hearings. Will the child who is retarded once found to be responsible for misbehavior after months of hearings then be paddled for the offense? Will administrators and school boards spend limited funds and time on each of these cases? Will complex state manuals and procedures be necessary? Will our nation's parent training center have to set up costly workshops to teach parents how to fight against the use of corporal punishment on their children with disabilities?

You cannot spank, paddle, beat, shove, arm twist, shake, ear-pull, or hair-pull an adult prisoner, but a teacher of disabled children can legally bruise a four-five-six year old child who is retarded or visually impaired because the child is not working fast enough or writing neatly enough.

I say to this Committee and to this Congress: **If we can't help a six year old child with disabilities write at a reasonable pace without hitting that child with an 18 inch long oak paddle, then we need to rethink what we are calling "special education" in this country!** We need to rethink the Federal role in teaching and protecting these children with disabilities if corporal punishment is to continue to be a legally supported practice in this nation's school systems.

CRITICS' QUESTIONS ANSWERED ABOUT THE CORPORAL PUNISHMENT BAN WITHIN EHA

Many legislators already see the merit of abolishing corporal punishment for our nation's disabled students. However, some feel that abolishing corporal punishment for disabled students will place too much focus on those who are disabled. Most legislators are opposed to corporal punishment and would like to see it abolished for all children. Those legislators who are unsure of the Federal role in this issue for the disabled have raised the following concerns. We hope that the statements below provide added information to those interested in this important issue.

1. EHA is not the proper vehicle for abolishing corporal punishment.

   EHA is the proper vehicle for the abolition. Corporal punishment is used on very vulnerable children with disabilities in place of effective behavior management and instructional techniques in at least 31 states. Children with disabilities are more fragile, more vulnerable and need to be protected by a national ban.

   Children with disabilities too frequently do not understand why their behavior might result in corporal punishment. They may not be cognitively or emotionally able to carry out the correct, appropriate behavior required to avoid corporal punishment. Children with disabilities frequently have self-esteem problems that can be exacerbated by the humiliation, pain and failure that corporal punishment means to them. As one student said "I get paddled because I'm a retard and I do bad things."

   The example of the child with cerebral palsy being spanked with an oak paddle for not brushing her teeth, which was an IEP component of her self-care training, is a clear example justifying the need to take this "behavioral technique for learning" out of special education. What training or theory in special education supports paddling children with disabilities? It does not work. Should Federal funds be used to support a harmful, unsuccessful intervention?

   If we are not smart enough to figure out how to manage the behavior of an 8 year old child with disabilities without hitting that child with an 18 inch oak paddle then we need to rethink what we are doing calling our educational program "special education."

2. Parents should use the IEP process to prohibit the use of corporal punishment upon their child when the parents object to its use.

   Parents who object to having bodily pain inflicted upon their handicapped child as a means of behavior management have this right, although it can be challenged or ignored by the local education agency. However, the parent then become responsible to monitor, complain and file appeals if corporal punishment is used. What would be the "punishment" to a school system if the system did not comply and used corporal punishment? Parents who have complained about abuse of this IEP limitation against corporal punishment have lost in court several times over (see enclosed newspaper articles).

Placing the burden of monitoring upon the parent is a very questionable practice. Furthermore, it is speculated that those parents who physically abuse their child may support the use of corporal punishment upon their child with disabilities.

A child in Ohio who was physically abused by his father, became emotionally disturbed and was placed in a special education program that used corporal punishment. The child became worse and needed a more restrictive placement after corporal punishment was used to deal with his emotional disturbance. His non-abusive parent did not know that corporal punishment could have been avoided through the IEP process. No one presented that right to her.

3. If corporal punishment is abolished for special education students and other disabled students, it will prevent mainstreaming. Teachers don't know who is disabled.

Wrong. Mainstreaming under EHA requires that the regular-education teacher knows the child has an IEP. Most mainstreamed children have required accommodations in their programs that burden the regular education teacher far more than not using corporal punishment. In fact, in many states the principal is the person who administers the corporal punishment after a delay in time. Principals are required to know who is disabled and who has an IEP. Teachers know who is disabled and most welcome help in finding effective ways in dealing with the classroom management of these students with disabilities. Furthermore, it is known that most teachers, when trained, don't use corporal punishment and that those who do use it, use it disproportionately when compared to their peers. The same is true for principals. Abolition would protect special education students in these punishing settings whether in self-contained classes or in the mainstream. There is no evidence that an abolition for students with disabilities would reduce mainstreaming. Some of the most mainstreamed, innovative programs are found in states that have abolished corporal punishment and in others that have not abolished it. However, no innovative programs are found in schools that actively use corporal punishment (see statistics from article on Tennessee Metro Schools).

Mainstreamed children with disabilities are frequently very insecure and unsure of themselves. Their anxiety about being competent and normal is generally higher than that of their regular peers. Their self concepts are fragile. When such a child receives corporal punishment, there is an increased sense of alienation and anxiety. Hyman & McDowell (1977) report that corporal punishment increases alienation and anxiety. It also increases the likelihood that the child will act more aggressively toward others (Bongiovanni, 1979).

4. Abolition of corporal punishment would reduce the school's likelihood of referring students with emotional disturbance to special education.

   The opposite seems true. States that presently rank among the highest in their use of corporal punishment rank poorest in services to the child with emotional disturbance (e.g., Arkansas, Texas)

   In Maryland's rural "Eastern Shore" counties that still permit corporal punishment there are virtually no children identified as emotionally disturbed. Whereas, counties that abolished corporal punishment have early identification procedures and programs for SED. The negative trend exists in counties that permit corporal punishment when compared to those that have abolished it. In fact, most professionals feel that teachers and principals, in seeking new ways of dealing with inappropriate behavior, will be more likely to seek help from professionals and will work more closely with parents, thus increasing the likelihood of earlier intervention and assessment of students at risk of being disabled with emotional problems.

5. The U.S. Constitution prohibits the Federal government from establishing such a ban to abolish corporal punishment for the student with disabilities.

   The Congress has established comprehensive rules and regulations for the education of individuals with disabilities. The abolition of corporal punishment is merely another assurance that disabled students who require effective classroom management and skill training will be more likely to receive this support. Since we know corporal punishment does not work, permitting it as a special education intervention for any reason is illogical and violates the intent of "appropriate public education." EHA supports teacher training, demonstration projects and research to effectively teach students who need special education. Research shows that corporal punishment is ineffective and harmful. There is no known college or university that trains special education teachers to use corporal punishment. There are no textbooks on the proper use of corporal punishment for students with disabilities.

6. Corporal punishment for students with disabilities should be used when the behavior is not caused by the disability but is just "normal" misbehavior. "This equalizes and normalizes the child with disabilities."

   First and foremost, this places a unique responsibility upon the teacher or other person using corporal punishment to determine the psychological state of the child, the child's motive and the interaction between the effects of the disability and the "normal" motives for misbehavior. What if 40% of the cause is related to the disability and 60% of the cause is related to "normal misbehavior?" Do the special educators using corporal punishment have the training to make these decisions? The permission to use corporal punishment discourages special education teachers and regular education staff from seeking training in other effective means of discipline (Hyman & Wise, 1979). Unlike suspension or expulsion, rulings that are made by a team when a child has an IEP, decisions about corporal punishment are made by one person and immediately administered with or without the parent's knowledge and/or consent.

GOAL: To enact legislation that would ban corporal punishment in the schools for children with disabilities.

REASONS TO BAN CORPORAL PUNISHMENT:

- Research in education and psychology shows no benefit in the use of corporal punishment.
- More than 50% of adults in the U.S. are opposed to corporal punishment in the schools (Gallop, 1988).
- Short- and long-term harm has been clinically documented. The majority of chid abusers were recipients of corporal punishment in school and/or at home.
- The January, '89 issue of the Harvard Medical School Mental Health Letter states, there is some "...evidence that harsh childhood discipline has a direct influence on the development of alcoholism and depression in adults."
- Children have a right to be secure, protected and free from violence (United Nations resolution endorsed by U.S.A., 1979).
- Schools are the only institutions in America in which hitting another person is allowed and legally condoned. Corporal punishment is not allowed in prisons, the military or in mental hospitals.
- Corporal punishment is a form of violence. By sanctioning this type of intervention, we are communicating the wrong message about the use of force (i.e., if you are bigger, stronger, or older, the use of violence is acceptable) (Bellak and Antell, 1979).
- We are alarmed by the increase in violence in our society, especially among young people.
- Instead of the use of physical force, school children with disabilities must be taught negotiation and mediation skills through courses in creative conflict resolution.
- It is recognized that corporal punishment has a long-standing tradition in this country, especially in the southern states. Tradition is not enough reason to continue a practice that has no scientific basis. Tradition once kept children with disabilities out of public schools (until P.L. 94-142).

ADDITIONAL INFORMATION:

- Of all the countries in the industrialized world, only two still allow paddling - South Africa and the U.S. (Iran and Uganda also permit paddling).
- Corporal punishment is not allowed in most countries including Norway, France, England, Scotland, Germany, Ireland, Israel, Soviet Union, China and Japan.

NATIONAL GROUPS SUPPORTING A BAN ON CORPORAL PUNISHMENT:

American Academy of Child and Adolescent Psychiatry
American Academy of Pediatrics
American Association of Mental Retardation
American Association of University Affiliated Programs
American Association for Counseling and Development
American Bar Association
American Medical Association
American Occupational Therapy Association
American Orthopsychiatric Association
American Psychological Association
American Speech-Language-Hearing Association
Association for Children with Learning Disabilities
Association for Retarded Citizens
Association of Junior Leagues
Child Welfare League of America
Children's Defense Fund
Council for Children with Behavioral Disorders
Epilepsy Foundation of America
Mental Health Law Project
National Association of Protection and Advocacy Systems
National Association of Social Workers
National Association of Pupil Personnel Administrators
National Easter Seal Society
National Education Association
National Education Association Caucus for Educators of Exceptional Children
National Coalition for the Prevention of Child Abuse
National Association of School Psychologists
National Mental Health Association
National Parent Teacher Association
Surgeon General Koop
The Association for Persons with Severe Handicaps
United Cerebral Palsy Association

OHIO CENTER FOR MORE EFFECTIVE SCHOOL DISCIPLINE

Nadine Block, Director
750 Brooksedge, Suite 107
Westerville, Ohio 43081
(614) 898-0170

Sponsored By:
Mental Health Association in Ohio
50 West Broad Street
Columbus, Ohio 43215

Sunday, June 12, 1988/The Columbus Dispatch

Paddling moves mom to action

Son, 11, spanked despite school's promise not to

By Mary Yost
Dispatch Statehouse Reporter

After her son had a kidney transplant at age 5, Veneta Lindsey thought the word of school officials that they would never paddle him was enough protection.

But it wasn't. He was paddled last month.

She is convinced Ohio needs a statewide school paddling ban.

While school is out this summer, she will be doing her homework to urge passage of pending legislation to enact such a ban.

The incident that moved her to activism did not injure her son, Jonathan Rager, beyond a small bruise on one hip, but even the principal of her son's elementary school admits the paddling should never have happened.

"All of our personnel know he is not to be paddled. I've defended it since he was in kindergarten," said J. Miller, principal at Clarksburg Elementary in the Adena Local School District in Ross County.

Those instructions never made it to the substitute teacher who paddled Jonathan last month in his class for slow learners.

"**JONATHAN IS** a little tiny guy," Miller said. "The teacher who paddled him is tiny, also. She said she barely touched him.

"I felt terrible. I thought, 'What in the world happened?' "

Jonathan is 11, but with only 54 pounds on a 46-inch frame he looks more like a 6-year-old, his mother said.

He had taken a math paper to the teacher's desk and asked for her help. She told him to return to his seat, and he threw the paper down in protest, saying he couldn't do it, Lindsey said.

Then he was paddled three times with a board.

He was crying but not really injured when he returned home that afternoon, Lindsey said. She said she is relieved that her son's kidney condition was not aggravated.

Lindsey said she is still upset that the paddling happened at all, despite all her efforts to guard against it.

"**I HOPE** the Adena school district, all school districts, will ban paddling. I think it's ridiculous. There are other ways to punish children," she said.

She said she intends to start a letter-writing campaign to ask state representatives to ban paddling by passing House Bill 401 or Senate Bill 179, which has already passed the Senate.

She said her two sisters whose children also were paddled this spring in Adena schools are likely to join her campaign.

The Adena schools placed ninth earlier this year on a "Hall of Shame" list of the 10 Ohio districts that paddle students most often. The list was compiled by the Ohio Center for More Effective School Discipline, which has lobbied for a paddling ban.

THE LIST was based on statistics that the U.S. Department of Education gathered from 95 Ohio districts for the 1985-86 school year.

The statistics indicate 7 percent of Adena students were paddled that year, but Miller said that does not give a true picture of corporal punishment in Adena schools.

"We have not abused it," Miller said.

He added his philosophy is that paddling should be used as "the extreme last resort."

But in her son's case, Lindsey said, "There wasn't a first or second warning about it."

Lindsey, herself a product of Adena schools, recalled being paddled by her second-grade teacher for failing a test.

She said it made her "not care so much about school."

SENECA LAKE
BAPTIST ASSEMBLY

Dispatch photo by Joe Pastoren

Veneta Lindsey and son, Jonathan Rager

IN COOPERATION WITH THE OHIO COALITION FOR MORE EFFECTIVE SCHOOL DISCIPLINE

Ohio Congress of Parents and Teachers (PTA) • Mental Health Association in Ohio • Ohio Council of Churches
Family Service Council of Ohio • Ohio State Medical Association • American Association of University Women
United Services for Effective Parenting • Urban League • Teachers and Educator's Against Child Hitting
Ohio School Psychologists Association • Action Ohio - Coalition for Battered Women • American Association of Mental Deficiency
National Association of Social Workers - Ohio • Ohio Division of the American Civil Liberties Union
Ohio Council of Community Mental Health Agencies • Ohio Association of Community Mental Health Boards • Ohio Academy of Pediatrics
Ohio Association of Child Caring Agencies • Ohio Psychological Association • Ohio Peacemaking Educational Network
Ohio Psychiatric Association • Ohio Nurses Association • Ohio Association for the Education of Young Children
Ohio Federation Council for Exceptional Children • Ohio Association of Colleges for Teacher Education • Ohio Association of Teacher Educators
Ohio Association of Private Colleges for Teacher Education • Boys Clubs

18 Special education student bruised by paddling

Houston Post
Feb. 6, 1975

An assistant principal and a teacher in the Channelview Independent School District have been disciplined for paddling a 13-year-old special education student so hard he suffered bruises.

District Superintendent B.H. Hamblen said letters of reprimand had been placed in the files of the two employees and the student has been transferred to another class.

The student, Shawn Pridgeon, is emotionally disturbed and was in a special class at Alice Johnson Junior High, said his mother, Eva Pridgeon.

She said her son came home from school last week and complained that a teacher had held him down while an assistant principal paddled him repeatedly. She said one buttock was covered with large bruises.

Pridgeon said she meet with Hamblen Tuesday morning, and was told her son would be transferred and the employees' disciplined.

Hamblen said the district does paddle students "as a last resort," but the paddling of the Pridgeon boy was more severe than necessary.

Pridgeon said school employees had paddled her son before, but never so hard that he was bruised. She said she took him to the school nurse to be examined and discussed the matter with school officials.

NATIONAL
ASSOCIATION
OF
SCHOOL
PSYCHOLOGISTS

HITTING THE HANDICAPPED

Legislation to ban the use of corporal punishment against handicapped children in special education classes was introduced by State Senator Nicholas C. Petris (D. Oakland). Students covered by the proposed law include the handicapped, blind, mentally retarded, crippled, deaf, emotionally disturbed and psychotic.

"It is inconceivable to me why any teacher feels the need to paddle or swat or spank a child who is handicapped or mentally retarded. Certainly no professional educator would condone such behavior no matter how difficult the child might be to control," Petris said.

Petris who is a member of the Senate Select Committee on Children and Youth reported that, "the situation is so grotesque that the Council for Exceptional Children offers an insurance policy for their members in case they are sued for beating a

---

MAINSTREAMING

Parents in the Douglass area of Nacogdoches, Texas, want Superintendent James Milstead fired and 65 of them signed a petition, hired a lawyer and announced that they will not stop until he is out.

The petition charges "abusive treatment of students, inappropriate physical punishments, public harassment and verbal abuse." But more than that, the special classes are being mishandled, they claim.

Cited are "interference and obstruction of special class programs funded by state and federal taxes. Children are put in and yanked out without parents' knowledge or consent and the teaching methods are interfered with and discriminated against. The customary beatings for not learning were not spared the retarded.

11/10/79

NACOGDOCHES, TEX.
SENTINEL

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* * *

Doctors Protest Use of Electric Cattle Prods on Sick Children

* * *

CATTLE PROD that Enquirer reporter tested on himself "jarred me to my toes — like sticking my finger into an electric socket."

The use of electric cattle prods on sick, self-destructive children — recently authorized at an Illinois state-licensed institution and known to be in wide use elsewhere — has brought a storm of protests from top U.S. doctors.

The prod, made for use on livestock, produces a painful shock in children that even its advocates admit is "comparable to a dentist drilling on an unanesthetized tooth."

"We've had kids brought here after they'd been in hospitals where the prod was used on them — but it didn't stop their self-destructive behavior from returning," said Dr. Ritvo, who is also chairman of the professional advisory board of the National Society for Autistic Children.

"The cattle prod makes the child frantic with fear. Its use borders on the criminal."

Psychiatrist Dr. Edward Ritvo said: "The prod scares the kids so much that they cower from the person who is using it."

And the device can harm the child physically, says an expert on autism, Dr. I. Newton Kugelmass, advisor to the Dept. of Health in New York City.

"The prods destroy nerve endings," he stated. "Afterward, there is some regeneration — but it's never complete. In the long run the prod will do harm to the nerve endings."

Mrs. Chris Griffith, a member of the Citizen's Advisory Committee on Mental Health in Georgia, and herself the mother of an autistic son, said:

"Many institutions won't admit publicly that they use them. I've visited three institutions where autistic children are cared for and where the prod is used. They don't want to talk about using it — but if you talk to the guards and ward attendants they'll tell you the truth.

"It's being used behind the scenes."

ST. PETERSBURG TIMES

ST. PETERSBURG, FL
DAILY 244,764

FRIDAY
JUL 3 1987

212

$200,000 judgment against Pinellas schools dismissed

30034

By WILMA NORTON
Times Staff Writer

CLEARWATER — The Pinellas County School Board won't have to pay $200,000 in damages to a mentally handicapped student and his parents, who claimed the autistic child was assaulted.

Federal District Judge Wendell A. Miles in Tampa dismissed the award, which was handed down in March by a federal jury. The jury found that teacher Nancy Wudtke did not intentionally assault David DiNapoli when he was a student at the Nina Harris Exceptional Education Center.

But the jury said school administrators Richard Gregg and J. Howard Hinesley should have supervised Mrs. Wudtke more closely.

The jury ordered the School Board to pay the DiNapolis $200,000 in punitive damages and $50,000 in compensatory damages.

Judge Miles did not dismiss the $50,000 award. His action on the $200,000 award came after school attorneys filed a motion to set aside the judgments. School officials received notice of his decision, which was made last week, on Thursday.

Gregg was principal of Nina Harris, and Hinesley, now associate superintendent, was assistant superintendent for exceptional education in 1980 and 1981 when the alleged assaults took place.

"We don't have too much trouble with that because that's (the $50,000 award) covered by insurance," said B. Edwin Johnson, the School Board's litigation attorney.

"We are all relieved," Johnson said Thursday afternoon. "I have talked to Dr. Hinesley, who is in Alabama on vacation, and with Mr. Gregg. They have been under a tremendous amount of strain and stress since the jury verdict."

Said Superintendent Scott Rose: "It was just incomprehensible to me that you could say the teacher had no responsibility, but two guys should have fired that teacher regardless."

In his position at the time, Hinesley could not have fired Wudtke, Rose said.

The suit named 17 present and former school officials as defendants. "How the jury singled out Hinesley and Gregg was somewhat of a mystery," Johnson said.

Albert DiNapoli, David's father, said he couldn't comment on the judge's action Thursday.

"I don't know anything about it," he said. "I'll have to get in touch with my attorney."

In dismissing the punitive judgment against the School Board, Miles said Florida law prohibits punitive damages against "the state and its agencies and subdivisions."

In dismissing the verdicts against Hinesley and Gregg, he said the evidence showed no reckless neglect by either. The two investigated complaints against Mrs. Wudtke, and Hinesley met with parents to discuss the charges.

The comments the two encountered during their investigations "covered the gamut from outrage, to skepticism as to her judgment, to whole-hearted approval," the judge said.

The DiNapolis alleged that Mrs. Wudtke once put her knee in David's back, pulled his hair and spoke to him cruelly. Another time, they said, she hit him in the eye and bruised him.

"Hinesley and Gregg thus were shown by the evidence to have been faced with widely conflicting reports," Miles wrote, and the investigation led to Mrs. Wudtke's transfer to another position.

Case
1118

BEST COPY AVAILABLE

SERIOUS INJURIES

Facial Fracture

PURVIS — John Russell, suspended from his Oak Grove teaching post for allegedly striking an 8th-grader on the face with a paddle, was reassigned to administrative duties Monday by the Lamar County School Board.

Although board members reinstated the 27-year teaching veteran, the board declined to return Russell to the classroom until a "fair dismissal hearing" by the board on Jan. 17 in the Lamar County Courthouse.

Lamar County Superintendent Emil Pav had recommended that Russell be "removed from his teaching position at Oak Grove and that his employment be terminated." Pav asked the board to resolve the situation as quickly as possible and said he would support any board decision. He also asked the board to grant Russell a "fair and impartial hearing as requested by his attorney."

Pav suspended Russell without pay Dec. 21 after an investigation of an incident in which 14-year-old Jason Hosey suffered a mild concussion and facial fractures around the eye which required corrective surgery. Pav later modified his decision, suspending Russell with pay.

The Clarion-Ledger
JACKSON, MISS.

Kidney Damage

ASHEVILLE — A Buncombe County couple is seeking $50,000 in damages from an elementary school teacher they say did "serious bodily injury" when he punished their son for allegedly sharpening his pencil without permission last year.

Elmer and Nancy Taylor sued June 1 in Buncombe Superior Court, saying that their son, Eric, 11, "sustained injuries to his kidneys to the extent that he urinated blood, and that he had painful contusions and bruises to his buttocks and back" after Gary Ingle paddled him Sept. 9.

The Taylors requested a hearing by the county school board and Mrs. Taylor said that she received a letter from the board afterward saying "that they would warn (Ingle) to use caution when he administered any kind of punishment in the future."

The child was in Ingle's class until school was dismissed for the summer. "I certainly didn't want to file suit against a teacher while my child was still in his room," Mrs. Taylor said.

Winston-Salem, N.C. Journal

June 14, 1984

Morris Turner

Nose Broken

When Judith Greene of Warminster received a call from the principal of McDonald Elementary School on April 1, she did not expect that the incident that warranted the call would lead her to file a suit in Bucks County Court.

Greene was told that her son, Glen, had a severe bloody nose and that she should come to the school immediately.

When Greene got to the school, Flissar told her that her 11-year-old son had been fooling with a string at his desk. She said the principal told her that Glen's teacher, Paul B. Sensenig, had told Glen to go to the blackboard and put his nose against it, as a punishment.

Greene said she was told that Glen moved his head to look away from the blackboard and when he did this, Sensenig told Glen that the service wouldn't want him, apparently because he didn't follow orders, Greene said.

Glen replied that he wasn't going in the service, Greene said.

Greene said that according to children in the classroom at the time, Sensenig was enraged by Glen's statement and grabbed the back of his head and smashed his face against the blackboard.

As a result, Judith and James Greene, of Decker Lane, Warminster, filed a suit in Bucks County Court Wednesday against Sensenig of Cobalt Ridge Dr., Levittown, and the Centennial School District, seeking $80,000.

HATBORO, PA.
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Metro/State

SECTION B

FRIDAY, MAY 5, 1989

52% of teachers paddle students, survey says

SHERREL WHEELER-STEWART
Staff Writer

Half the teachers surveyed recently by the Metro Nashville Education Association say they have paddled students during the current school year.

Of the 1,797 educators who responded in April to a voluntary survey, 52% said they have paddled students and most say it is a last resort, according to a survey released yesterday.

"Teachers know and believe they need a variety of methods for discipline, because the same method does not work for all children," said Linda Roland, MNEA president.

"We support the teachers' use of corporal punishment as long as it is within the guidelines set by the Metro school board," Roland said.

Board policies require teachers to escort children to a secluded place to conduct a paddling. The paddling must be witnessed by another adult member of the school staff.

Both the teacher and the witness are required to fill out forms stating that a paddling has been given and those forms are turned into the board of education.

"Some teachers do not use paddling because the process demands that they are away from other children in the classroom for several minutes," Roland said.

MNEA conducted the survey in preparation for a statewide survey which is being planned by the Tennessee Education Association.

Sometimes, the same students are paddled more than once, according to the survey.

Of those surveyed, 48% said they spanked one to three students more than once and 12% said they spanked four or more students more than once.

The survey listed parental conferences as the No. 1 alternative to paddling.

"Teachers say that bringing the parents into the school often works better than paddling," Roland said.

"Teachers must have parental support in all aspects of education to bring about success for students," she said.

Other alternatives listed by teachers included isolation, reward systems, time out placement, counselling, behavior modification, in-school suspension, principal's office, write-offs, out-of-school suspension, referral to special services, written assignments and after school suspension.

Removal of corporal punishment as a method of discipline would affect the ability of teachers to manage classrooms, teachers said.

In the survey, 72% of the teachers said their classroom management would be affected if they could not use corporal punishment.

Interest in corporal punishment has soared recently following reports that Tennessee ranks fourth in the nation in the paddling rate.

The Tennessee Coalition for Alternatives to Paddling is gearing up for efforts to have corporal punishment in schools outlawed in the next session of the Tennessee General Assembly.

Oponents of corporal punishment say it is not a successful method of discipline because often the same students are paddled over and over. They also say it gives students a message that violence and agression are acceptable ways to solve problems.

Other information in the survey showed:

- 93% of the teachers responding in the survey said paddling is an effective method of discipline in the classroom and 7% said it is not effective.
- 93% said they notice improvement in students who are paddled and 7% said there is no improvement in student behavior.
- Of the teachers who paddle students, 51% said one or more students in their homeroom class have letters on file from their parents requesting that they not be paddled. ■

Rules govern paddling in schools

The Metro school board's policy on corporal punishment, approved in 1972, says:

■ A principal may administer corporal punishment to a pupil when he or she deems it necessary. This must be done in the presence of a witness.

■ A teacher may administer corporal punishment to a pupil when the teacher deems it necessary. The punishment must be administered in private and be witnessed by another professional person. A report of the case will be filed with the principal before the close of that day.

■ If parents or guardians object to the infliction of corporal punishment upon their children or wards, such objection shall be made in advance, in writing, to the principal of the school.

Paddling in Metro

All figures below are for the 1987-88 school year.

	Students paddled	Total paddlings	Enrollment
Allen Elem.	40	64	213
Amqui Elem.	156	306	592
Antioch High	33	44	1,234
Apollo Middle	114	187	758
Bailey Spec. Ed.	0	0	95
Bass Middle	33	42	437
J.Baxter Middle	151	295	401
Bellevue Middle	63	85	685
Bellshire Elem.	104	204	365
Berry Elem.	8	8	357
Binkley Elem.	116	303	407
Bordeaux Elem.	21	25	255
Brick Church Mid.	28	42	357
Brookmeade Elem.	29	32	406
Buena Vista Mid.	42	54	396
Cameron Mid.	216	468	845
Carter-Lawrence	32	39	387
Cavert Spec. Ed.	12	14	87
Chadwell Elem.	105	261	472
Charlotte Pk. El.	23	35	532
Cockrill Elem.	81	171	340
Cole Elem.	74	112	1,019
H. Cotton Elem.	51	64	493
Crieve Hall Elem.	13	15	318
Cumberland Elem.	120	254	489
Dalewood Elem.	88	181	380
Dodson Elem.	60	69	1,311
DuPont Elem.	69	114	625
DuPont-Hadley	80	183	292
DuPont-Tyler Mid.	186	535	561
Eakin	0	0	555
John Early Mid.	31	51	243
East Middle	91	141	768
Ewing Park Mid.	254	1,284	510
Fall-Hamilton El.	48	55	417
Gateway Elem.	23	30	323
Glencliff Elem.	62	145	559
Glencliff High	24	27	1,466
Glendale Mid.	10	12	257
Glengarry Elem.	15	21	209
Glenn Middle	54	99	251
Glenview Elem.	64	139	335
Goodlettsville El.	115	202	469
Goodlettsvile Mid.	58	75	374
Gower Elem.	7	8	399
Gra-Mar Elem.	86	132	471
Granbery Elem.	1	1	562
Alex Green Elem.	91	231	319
Julia Green Elem.	0	0	406
Harpeth Val. Elem.	9	10	380
Harris-Hillman S.E.	0	0	140
Haynes Middle	56	79	331
Haywood Elem.	56	86	728
Head Middle	21	25	591
Hermitage Elem.	37	53	391
Hickman Elem.	55	100	544
Highland Hts. Mid.	57	68	484
H.G. Hill Elem.	96	186	500
Hillsboro High	6	6	1,429
Hillwood High	13	13	1,296
Hume-Fogg High	0	0	449
Hunters Lane High	6	6	1,984
Cora Howe Elem.	109	232	457
Inglewood Elem.	158	432	567
A. Jackson Elem.	40	65	557
Joelton Elem.	33	61	263
Joelton Mid.	86	148	406
Johnson Mid.	20	25	270
Jones Sp.Ed.	12	21	50
Tom Joy Elem.	86	125	779
King Magnet	2	2	326
King's Lane Mid.	119	222	510
Kirkpatrick Elem.	187	463	515
Lakeview Elem.	186	490	1,209
Litton Middle	149	334	522
Lockeland Mid.	116	254	416
Maplewood High	60	80	956
McCann Elem.	156	335	489
McGavock Elem.	27	30	371
McGavock High	4	4	2,969
McKissack Mid.	108	151	501
McMurray Mid.	51	87	640
Meigs Magnet	19	20	474
Dan Mills Elem.	97	209	386
Moore Middle	69	161	470
Morny Elem.	35	46	242
Napier Elem.	83	198	566
Neely's Bend El.	134	312	524
Neely's Bend Mid.	43	57	365
Old Center Elem.	59	108	233
Overton High	6	6	1,422
Paragon Mills El.	50	96	451
Park Ave. Elem.	104	228	296
Pearl-Cohn High	119	169	1,100
Pennington Bend	12	14	379
Percy Priest Elem.	26	38	385
Rosebank Elem.	113	223	592
Rose Park Middle	55	104	542
Ross Elem.	74	123	303
Shwab Elem.	148	305	484
Stokes Middle	0	0	371
Stratford High	56	66	1,482
Stratton Elem.	149	432	599
Sylvan Park Elem.	26	36	475
Tusculum Elem.	125	243	686
Two Rivers Mid.	75	133	658
Una Elem.	132	305	764
Union Hill Elem.	51	116	120
Vaught Spec. Ed.	0	0	91
Wade Elem.	39	106	113
Warner Elem.	149	260	704
West End Mid.	171	456	373
Westmeade El.	21	23	471
Wharton Mid.	87	173	501
Whites Creek High	84	109	1,817
Whitsitt Elem.	63	113	509
Wright Middle	165	343	830

Source: Metro Schools

Teen kills principal as mother watches

500 3A

BETHLEHEM, Ga. (UPI) — A 13-year-old student stabbed the principal of rural Bethlehem Elementary School to death Wednesday morning during a discipline conference as his mother watched in horror, authorities said.

Barrow County Sheriff Gerald Thomas said Kevin Lyle Jones apparently used a pencil to stab Principal Murray Kennedy in the shoulder, neck and chest. Kennedy, 43, died a short time later at a Winder hospital.

The incident occurred one day after Kennedy had paddled Jones as a disciplinary measure, Barrow County School Superintendent Don Hights said.

"The door was closed," Hights said. "The only eye witness was the mother. Mr. Kennedy collapsed on the floor. Paramedics were called and CPR was administered.

"You never expect this kind of occurrence. There was no reason to believe this young man to be violent," Hights said.

Jones fled from the school while his mother called the rescue squad. The youth was brought to the jail a short time later by his father and appeared several hours later before a juvenile court judge.

Jones was charged with murder, but under state law he cannot be tried as an adult. He is being held in the Gainesville Youth Center.

Kennedy joined the Barrow County school system in 1972 as principal of Auburn Elementary School and became principal of Bethlehem in 1983.

"It's not a school that has been plagued with discipline problems or any violence," Hights said. "I'm sure Mr. Kennedy was not expecting this kind of behavior from the youngster."

Retarded need special treatment

200 3A

Editors: In reference to the death of Murray O. Kennedy — principal of Bethlehem Elementary School:

Was the retarded 13-year-old provoked into a rage? Retarded people (whatever their age) need a different approach to discipline from normal students. A little tender loving care goes a lot further than violent spankings and harsh tones of speaking.

One must remember they are, mentally, children despite the size or physical age of the retarded student.

I am a parent of a retarded girl who is 27 — with the mental age of a 6-year-old.

I recall an incident that happened some time ago while my daughter attended a special school. I told my daughter to go back into the classroom to get her clothes to take home to be laundered. The teacher said, "No — leave your clothes here, get out and go home."

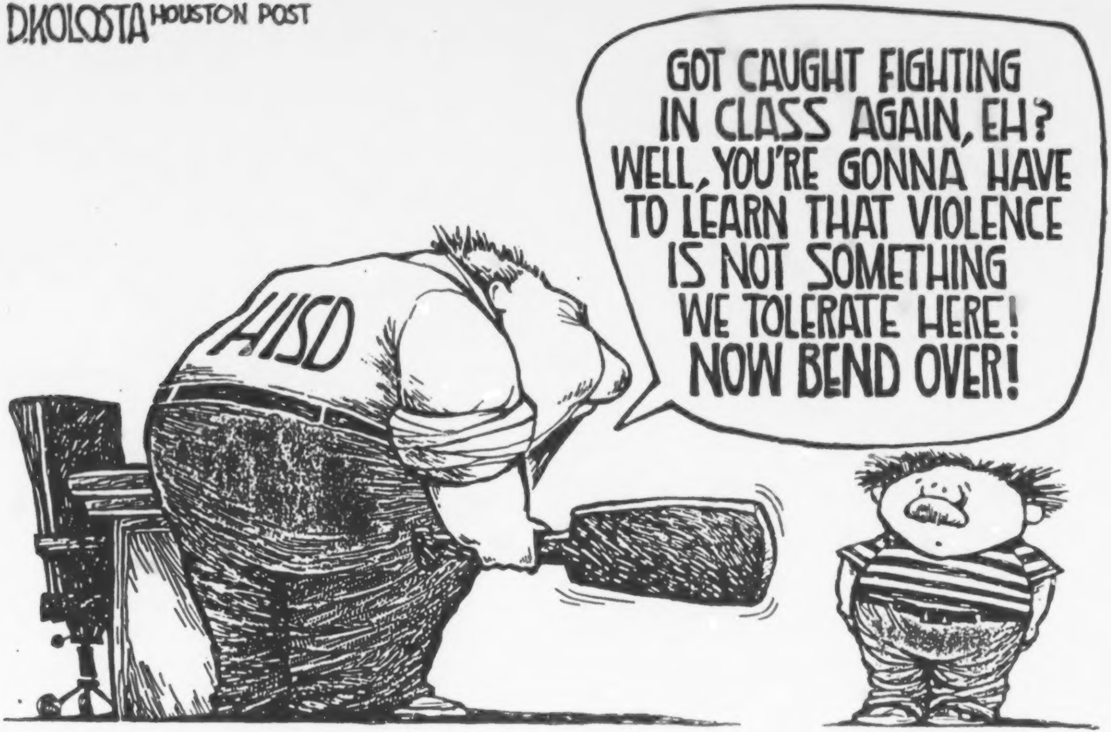
My daughter had a difficult time getting the message across — that I had sent her back with specific orders to bring the clothes. Well, the instructor got very angry, held my daughter and began to spank her — for not obeying.

Then, my daughter went into a rage — biting and scratching and kicking the teacher. I told the teacher if she could have been calm and gotten to the bottom of this misunderstanding, the rage would not have been provoked. My child was just so frustrated she could not control her actions.

Another form of discipline was practiced from then on — and no more losing control occurred. *Retarded people are different*, and need to be understood, and alternative measures found to correct misbehaving students.

JEANNE B. STANLEY
Macon

MACON TELEGRAPH AND NEWS
MACON, GA
DAILY & SAT 70,400
SATURDAY
NOV 29 1986


D.KOLOSTA HOUSTON POST
HISD
GOT CAUGHT FIGHTING IN CLASS AGAIN, EH? WELL, YOU'RE GONNA HAVE TO LEARN THAT VIOLENCE IS NOT SOMETHING WE TOLERATE HERE! NOW BEND OVER!

Mr. **Owens**. Go right ahead. Please enter your name for the record.

Mr. **Hyman**. Mr. Chairperson and members of the subcommittee who are here, it is indeed an honor and a pleasure to be invited here today to testify on behalf of the National Association of School Psychologists and the American Psychological Association.

My name is Irwin Hyman. I'm Director of the National Center for the Study of Corporal Punishment and Alternatives in the Schools and Professor of School Psychology at Temple University. I'll spare you reading this 30-page presentation and skip through most of it and make it available.

In this presentation I will address both generic issues regarding the use of corporal punishment and specific problems related to its use with children with disabilities.

The overwhelming evidence is that the infliction of pain is an outmoded, ineffective and counterproductive method of discipline. The research shows that the use of fear and pain are antithetical to the development of internal controls and the acquisition of the traits of honesty, integrity and respect for others which we al value in a democracy.

Over 50 years of research demonstrates that the best type of discipline is that which builds self-esteem, positive motivation and the desire to do good because of a conscience based on altruism and concern for others rather than fear of being punished.

In fact, history demonstrates that when the state empowers its agents to inflict physical pain upon its citizens, that power is invariably abused.

In this testimony I attempt to summarize what we know about corporal punishment and offer alternatives to its use. In addition to my testimony, Mr. Chairman, I would like to present you and Representative Bartlett with copies of "Corporal Punishment in American Education," the page proofs of my soon-to-be-released book, "Reading, Writing and the Hickory Stick," and other selected articles.

I also offer a videotape of a program on disciplining emotionally disturbed children which I did for the tie-in satellite network, a professional development interactive television service for educators which is located in Texas. In the rush to get here yesterday, I left it at home so it's in the mail. It will arrive tomorrow by Federal Express.

While this material that I've given you is much too lengthy, as my testimony is, to be included in the oral presentation, I do request, Mr. Chairman, that you make this material available to members and staff of the subcommittee who wish to examine the issue in depth.

Mr. Chairman, if this language prohibiting the use of corporal punishment in programs supported under EHA is adopted, it will represent the first Federal legislative initiative to give any class of school children the protection afforded all school children in Europe, in all of Continental Europe, all the Communist and Socialist nations, England, Ireland, Israel, Japan, 19 states, many of the major cities in the suburbs and a growing number of school districts.

This testimony and supporting material illustrate the pervasive problem of the misuse of corporal punishment in our schools, especially in certain areas of the country. Where a child lives in America should not determine whether he or she may be hit or legally abused by educators. This is too often done in the name of school discipline and under the protection of local and state law.

I brought press clippings from each of the states of the members of this committee showing examples of abusive use, legally abusive use, of corporal punishment on special education children.

I also brought some sample paddles. This one was seized by a Catholic Priest, Father Choque in Bessemer City School Junior High where the students make them in the wood shops. They make the weapons that are used on them in the wood shops. This was used on a boy in Sallisaw, Oklahoma, and this is what they use in eastern Oklahoma on children when they misbehave. It's a leather [indicating] size 12 and a half, and this is a sample.

So, I've done all the research——

Mr. **Owens**. Without objection, we'll take the press clips and enter them into the record.

Mr. **Hyman**. Okay. I'd like to use the Xerox.

Mr. **Owens**. The paddles are something else.

Mr. **Hyman**. Okay.

[Laughter.]

Mr. **Hyman**. I would like to get them Xeroxed. They're the only ones in existence so we'll work with your staff on that.

While local and state regulations designed to limit the severity of corporal punishment sound reasonable, I can assure you that they aren't, they don't work. This is especially true in the cases of special education students whose behavior may make them more vulnerable to the wrath of angry, frustrated and burnt-out teachers and educators.

Before the more academic presentation which I'm really not going to bore you with because all the facts are there and all the materials I've produced in the last 13 years, I would like to share with you some graphic examples of the results of legally-sanctioned corporal punishment of children with disabilities.

I give the names only of students whose identity is already part of the public record and whose parents have given me permission to use these slides to educate the public.

We can start with the first slide.

[Showing slides.]

Mr. **Hyman**. The first slide shows the buttocks of nine year old Chris Mathis from Berrien County, Georgia who was scheduled to tell his own story here today but, as with many cases of the people that I work with, they're poor, disenfranchised, and Mr. Dwyer will tell you more about why they couldn't show up today.

You will note that the paddling was so severe that you can see the outline of the top of the paddle where the deep red bruises end. I evaluated Chris, who had average intelligence and a learning disability, and determined that he had post-traumatic stress disorder, as do so many other severely disciplined children in special education programs. Chris' offense was to tell another student to shut up.

Like the families of most of the disabled children who are abused, the Mathis family are working people with limited resources. As is often the case, the action taken against Chris was trivialized by school authorities.

Appropriate agencies which are supposed to protect citizens from assault refused, as they do in many, many case, to take remedial action. However, Mr. and Mrs. Mathis were fortunate to find counsel and they prepared tort litigation against the school.

The school requested summary judgment in the case without ever reaching trial and in the court of appeals of Georgia which ruled for the defendant. Presiding Judge Banke indicated in a February 1st, 1989 opinion that "it is to be anticipated that corporal punishment will produce pain and the potential for bruising."

If anyone in American other than education had inflicted this damage, it would have been labeled child abuse and criminal charges or civil charges could have ensued.

Let's go to the next one.

This slide shows the bruised buttocks of David Maness who was a 14 year old learning disabled student when the educators in Felicity-Franklin School District in Ohio decided that this was appropriate punishment for allegedly breaking a stapler. When I evaluated David at the age of 18, he had a full-blown case of post-traumatic stress disorder as a result of the frequent paddlings in this school.

The next slide shows the results of the paddling of a 12 year old who was a special education student in Channelview, Texas in 1985. His teacher allegedly held him down while the assistant principal inflicted this damage.

The next two slides are of mentally retarded students in Georgia. They were provided to me by the Association for Retarded Citizens of Georgia and because of confidentiality concerns, I was not provided with the names and details.

The last slide shows the results of being tied to a chair. After 15 days in Edmonds, Washington School District, this emotionally disturbed eight year old was allegedly punished for unruly behavior by being tied to a chair for approximately four hours. He was denied lunch during this period. The school, according to his mother, had agreed to call her if this boy, who had a history of abuse, misbehaved. Notice the rope burns on his side which resulted from his struggles to free himself from the chair which was bolted to the floor.

I have many, many other slides of cases in which I've been involved as an expert witness, but I think I've made the point here. This is not just an academic issue. It's an issue that involves the lives of children and their families who can't defend them.

Some educators will say that these cases are the exception to the rule and this would never be allowed in "their" districts. Once in Pennsylvania Public Television I debated the superintendent of schools in Allentown, Pennsylvania. In defending the use of corporal punishment, he claimed that this couldn't happen at his school.

Several years later his school was sued when a learning disabled child, Stephen Ernst, was paddled, along with every other member of his class, for not producing a book that was allegedly stolen. As it turned out, the book had been misplaced, not stolen.

I evaluated Stephen, who had a PTSD, post-traumatic stress disorder, and has been in treatment for over a year as a result of the paddling.

I will not read the data and statistics included in the rests of this testimony. I assure you that support for the abolishment of corporal punishment needs to be established around the country. The material that we've talked, especially the facts about it, are summarized on pages 13 to 18, which I will not read. All the facts that I state are facts and they are based on well-documented research.

Discipline is a complex problem, especially with children with disabilities. Solutions to behavior problems require thoughtful consideration and positive approaches. There are hundreds of effective positive ways to prevent misbehavior and to discipline children without hitting them.

The Office of Education, the former National Institute of Education, the National Institute of Mental Health, and the Office of Juvenile Justice are among the many Federal agencies which have published numerous studies and monographs relevant to appropriate non-violent solutions to disciplining children with a variety of behavioral and developmental problems.

The discipline files at our National Center for the Study of Corporal Punishment are replete with publications. None of the programs that I know of rely on the use of corporal punishment.

I hope that this committee will consider the data from researchers, practitioners and scholars who overwhelmingly are against the use of corporal punishment with students. I also hope that this committee will ignore the weak arguments that there needs to be local control because, as these slides evidence, local control hasn't worked.

Every one of these cases was legally sanctioned corporal punishment of special education students. There are no—I repeat—no data-based arguments to support the use of violence upon the bodies of children. It is bad for the children, it's bad for the people who administer it, and it's bad for our society. It only adds to the unacceptably high levels of violence to which children are exposed every day of their lives through the media and actual experience of abuse in homes and assault on the streets.

Mr. Chairman, I believe there's no more need for research. It's time to take action, and I commend the committee for holding hearings on this matter. I'll be happy to respond to any questions or offer further assistance from our data that we have at the National Center.

Thank you.

[The press clippings referred to are available in the subcommittee office.]

[The prepared statement of Irwin Hyman follows:]

TESTIMONY OF

IRWIN A. HYMAN, ED.D

National Center for the

Study of Corporal Punishment

and Alternatives in the Schools

Temple University

Assisted by:

BRUCE ZAHN, M.A. & ELIZABETH GASIEWSKI

Temple University

on behalf of

THE NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS

and

THE AMERICAN PSYCHOLOGICAL ASSOCIATION

before the

UNITED STATES HOUSE OF REPRESENTATIVES

Committee on Education and Labor

Subcommittee on Select Education

February 21, 1990

PROHIBITION OF CORPORAL PUNISHMENT OF CHILDREN WITH DISABILITIES

Mr. Chairperson and Members of the Subcommittee, it is indeed an honor and a pleasure to be invited here today to testify on behalf of the National Association of School Psychologists and the American Psychological Association. My testimony is on the subject of the proposed prohibition of corporal punishment of school children with disabilities, which is being considered in connection with the reauthorization of the Education of the Handicapped Act (EHA). I am Dr. Irwin A. Hyman, Director of the National Center for the Study of Corporal Punishment and Alternatives in the Schools (NCSCPAS) and Professor of School Psychology at Temple University. Since 1957, I have been a teacher, a practicing and consulting school psychologist, a trainer of school psychologists, and a consultant to federal, state and local agencies and schools regarding discipline of students in regular and special education settings.

In this presentation I will address both generic issues regarding the use of corporal punishment and specific problems related to its use with children with disabilities. The American Psychological Association, in 1974, and more recently, The National Association of School Psychologists, passed resolutions against the use of corporal punishment of school children. Their decision to take this position is based on careful, data-based considerations of the practice (Hyman & Wise, 1979). As you may hear today, almost every national organization which deals with children has taken a similar position. Many of these organizations, including the National Education Association and the National Parent Teachers Association, are directly involved in the welfare of school children. I am happy to report that our objective, scientific research and clinical experience has been a source for much of the information these organizations used when considering their positions on this issue. I hope we may be of similar help to the Subcommittee.

Since its inception in 1976, the NCSCPAS has conducted research to help separate fact from myth regarding the deeply ingrained belief that hitting children is either necessary or desirable (Hyman, 1988a, 1988b; Hyman & Fina, 1983). The overwhelming evidence is that the infliction of pain is an outmoded, ineffective and counterproductive method of discipline (Hyman, 1990; Oliner, 1988). The research shows that the use of fear and pain are antithetical to the development of internal controls and to the aquisition of the traits of honesty, integrity, and respect for others which we value in a democracy (Hyman, 1978a; Hyman & D'Allesandro, 1984; Miller, 1980). Over fifty years of research by psychologists demonstrates that the best type of discipline is that which builds self-esteem, positive motivation and the desire to do good because of a conscience based on altruism and concern for others, rather than on fear of being punished (Bogiovanni, 1979; Skinner, 1979; Hyman, 1987). In fact, history demonstrates that when the state empowers its agents to inflict physical pain upon its citizens, that power is invariably abused (Gibson, 1978; Glenn, 1984; Manning, 1979).

In this testimony I attempt to summarize what we know about corporal punishment and offer alternatives to its use. In addition to my testimony, Mr. Chairman, I would like to present you and Representative Bartlett with copies of Corporal Punishment in American Education (Hyman & Wise, 1979), the page proofs of my soon to be released book Reading, Writing and the Hickory Stick (Hyman, 1990) and other selected articles. I also offer a videotape of a program on disciplining emotionally disturbed children which I did for the TI-IN Satellite Network, a professional development interactive television service for educators which is located in Texas. This program educates Texas teachers in effective methods of discipline without the use of corporal punishment. While this material is too lengthy to be included in the Record of this proceeding, I do request, Mr. Chairman, that you make this material available to members and staff of the Subcommittee who wish to examine the issue in depth.

Mr. Chairman, if this language prohibiting the use of corporal punishment in programs supported under the EHA is adopted, it will represent the first federal legislative initiative to give any class of school children the protection afforded all school children in Europe, the communist nations, England, Ireland, Israel, Japan, nineteen states, many of the major cities and their suburbs, and a growing number of school districts. This testimony and supporting material illustrate the pervasive problem of the misuse of corporal punishment in our schools, especially in certain areas of the country. Where a child lives in America should not determine whether he/she may be hit or legally abused by educators. This is too often done in the name of school discipline and under the protection of local and state law.

Defining Corporal Punishment

Corporal punishment is the infliction of pain to change a child's behavior. As defined in most statutes which allow it, the force used must be reasonable, it must not be administered with malice, and it must not cause serious, long-lasting physical damage. It is not the use of force to protect oneself, other students or property, nor is it to keep students from hurting themselves. The most common, formal type of corporal punishment is paddling with a wooden instrument. However, records at the NCSCPAS reveal that educators have resorted to methods of corporal punishment such as pinching, ear twisting, hair pulling, sticking pins in students, choking, kicking, knuckle rapping, punching and shoving (Clarke, 1986; Clarke, Erdlen & Hyman, 1984; Clarke, Liberman-Lascoe & Hyman, 1982; Hyman, Clarke & Erdlen, 1987). It also includes forcing students to assume physically painful positions, confining students for unreasonably long periods of time, forcing them to mouth or swallow noxious substances, and exercising them to exhaustion (Hyman, Clarke & Erdlen, 1987).

When Corporal Punishment is Severe

While local and state regulations designed to limit the severity of corporal punishment sound reasonable, I can assure you that they do not work. This is especially true in the case of special education students whose behavior may make them more vulnerable to the wrath of angry, frustrated, and/or burned-out educators. Before the more academic presentation and recitation of facts and data, I would now like to share with you some graphic examples of the results of legally sanctioned corporal punishment of children with disabilities. I have brought examples of the types of paddles which were used to inflict the bruises that you will see. In addition, I will present a set of slides which illustrate the physical damage resulting from the use of corporal punishment. In these examples, I give the names only of students whose identity is already part of the public record and whose parents have given me permission to use these slides to educate the Committee.

The first slide shows the buttocks of 9 year old Chris Mathis from Berrion County, Georgia. You will note that the paddling was so severe that you can see the outline of the top of the paddle where the deep red bruises end. I evaluated Chris, who has average intelligence and a learning disability, and determined that he has post-traumatic stress disorder (PTSD), as do so many other severely disciplined children in special education programs (Hyman, 1987; Hyman & Bogacki, 1984; Hyman, Zelikoff & Clarke, 1988; Lambert, et al, 1988). Chris' offense was to tell another student to "shut up".

Like the families of most of the disabled children who are abused, the Mathis family are working people with limited financial resources. As is often the case, the action taken against Chris was trivialized by school authorities (Hyman, Fudell, Johnson & Clarke, 1985). Appropriate agencies which are supposed to protect citizens from assault refused to take remedial action (Hyman, 1990). However, Mr. and Mrs. Mathis were fortunate to find counsel and they prepared tort litigation against the school. The school requested summary judgement and the case, without ever reaching trial, ended in the Court of Appeals of Georgia which ruled for the defendants. Presiding Judge Banke indicated in a February 1, 1989 opinion that "it is to be anticipated that corporal punishment will produce pain and the potential for bruising" (A89A0183 - Mathis et al v. Berrion County Schools, BA-21). If anyone other than an educator had inflicted this damage it would have been labeled child abuse and criminal charges would have ensued.

This slide shows the bruised buttocks of David Maness who was a 14-year-old learning disabled student when the educators in Felicity-Franklin School District in Ohio decided this was appropriate punishment for allegedly breaking a stapler. When I evaluated David at the age of 18 he had a full blown case of post-traumatic stress disorder as a result of the frequent paddlings in his school.

This slide shows the results of a paddling of a 12 year old who was a special education student in Channelview, Texas in 1985. His teacher allegedly held him down while the assistant principal inflicted this damage.

The next two slides are of mentally retarded students in Georgia. They were provided to me by the Association for Retarded Citizens of Georgia and because of confidentiality concerns, I was not provided with names and details.

The last slide shows the results of being tied to a chair. After 15 days in Edmonds, Washington School District, this emotionally disturbed 8 year old was allegedly punished for unruly behavior by being tied to a chair for approximately four hours. He was denied lunch during this period. The school, according to his mother, had agreed to call her if this boy, who had a history of abuse, misbehaved. Notice the rope burns on his side which resulted from his struggles to free himself from the chair which was bolted to the floor.

I have many other slides of bruised school children who I have evaluated. Invariably this type of sanctioned damage causes life long sequelae.

Some educators will say that these cases are the exception to the rule and that this would never be allowed in "their" school district. Once, on Pennsylvania Public Television, I debated the superintendent of schools in Allentown, PA. In defending the use of corporal punishment, he claimed that this couldn't happen in his school district. Several years later, the Allentown school district was sued when a learning disabled child, Stephen Ernst, was paddled along with every other member of his class for not producing a book that was allegedly stolen. As it turned out the book had been misplaced, not stolen. I evaluated Stephen who had PTSD and has been in treatment as a result of the paddling.

In every example of abuse which you saw on the screen, except the Texas case, the schools defended what was done. In the Texas case, letters of reprimand were placed in the offending educator's files and the child was transferred. Even this minimal level of reprimand of the educators was unusual in Texas, which has consistently ranked among the top swatters in the country according to the Office of Civil Rights (Russell, 1988, 1989). These abuses all occurred under the color of a legal framework that protects the right of "local control" and directs educators to use "reasonable" force. The truth is that you can't legislate tempers, especially when authorities have the legal right and social sanction to vent their anger on children (Hyman, Clarke & Erdlen, 1987; Hyman, Fudell, Johnson & Clarke, 1985; Hyman, Zelidoff & Clarke, 1988).

Foes of child abuse legislation have always claimed that discipline of children, no matter how severe, should be a local and family matter. Why have we disallowed local definitions of abuse except in the case of school children? Why have the supporters of local control of school corporal punishment increasingly avoided public debate of the issues and resorted to behind-the-scenes lobbying to kill anti-corporal punishment legislation?

Incidence of Corporal Punishment in Schools

No one knows the actual extent of corporal punishment in American schools. However, the Office of Civil Rights has conducted biannual surveys since 1976 which include information on corporal punishment (Russell, 1988).

Just because the government has data, however, doesn't mean those data will be readily available and usable. We had to obtain raw data from the 1976 OCR survey in order to analyze it (Glackman et al, 978). The 1986 data had to be obtained through the Freedom of Information Act and the 1988 data are still not available. Our analysis of the 1976 data was possible because we were able to obtain actual response sheets and transfer it for statistical analysis by computer (Glackman et al, 1987). Our analysis of the 1976 data revealed the racial, sexual and economic demography of corporal punishment. Although we knew the data was somewhat flawed, the OCR survey led to a whole series of future studies (Hyman, 1990).

Two years ago, Bill Russell (1988, 1989), a graduate student and staff member at the NCSCPAS, began to study the OCR data in order to make sense out of it. He found that the data grossly underestimates the actual numbers and percentages of children who are hit each year in the schools of America. There are many problems with the data which support the conclusion that it greatly underestimates the amount of corporal punishment. For instance, there are no reports from private, parochial and other church related schools. My informed "guesstimate" several years ago suggested three million incidents of corporal punishment take place each year in American schools. However, since 19 states and an increasing number of schools in other states have abolished corporal punishment, I would guess that the number is now smaller. On the other hand, over the last decade, increasing numbers of children attend private and church related schools from which data are not available. Also, their is some evidence that with more children with disabilities in regular classrooms there may be an increase in swatting.

Rose (Jan/Feb 1989) conducted a follow-up study of a 1983 survey of the use of corporal punishment with mildly handicapped children. Fifty percent of the 261 principals in this national sample indicated that they considered corporal punishment as a disciplinary option with mildly handicapped students. The study revealed that, compared to responses in 1983, 29% more of the principals who use corporal punishment on regular education students would use it with special education students. This may reflect an increasing frustration of educators to deal with the growing number of mildly handicapped students who are being mainstreamed or placed full-time in regular classrooms as part of the Regular Education Initiative. In many cases, teachers are not given adequate support to help these children, while still having to manage 20 to 30 other students in their classes. Or the difference may be the result of higher numbers of children with behavioral problems, resulting from greater levels of stress in families. The study also indicates an alarming increase of 390% in the number of teachers who reported using corporal punishment with mildly handicapped students.

According to a report in the December 26, 1987 issue of the Nashville Tennessean, blind and crippled students in the Nashville Schools were paddled at a rate of 176%. This was determined by dividing the number of paddlings by the number of students. Therefore, as with much of the incidence data, one doesn't know from a report of 10 paddlings if one student was paddled 10 times or 10 students were paddled once.

At the NCSCPAS we have a file of newspaper clippings of school corporal punishment cases which are gleaned from the nation's newspapers. These are the most severe cases, since the parents are usually so outraged by the effects of the beating on their children that they go public (Clarke, 1986). We identified 119 cases involving special education students. They included the following alleged educator inflicted abuses: 66 hitting incidents using either paddles, hands or other objects; 17 excessive uses of aversive procedures such as "time out"; 8 cases involving one or a combination of slapping, screaming, cursing and/or kicking the child; 20 cases which included one or a combination of dragging, sticking with pencils, scratching, choking, handcuffing, and kneeing a student in the face. Of course, these cases are bizarre exceptions; but, they happen too often. The fact that they occur at all is distressing. But even more distressing is the common pattern of trivialization, denial and stonewalling when parents complain. Remember, in most cases, the children come from poor or working class families. In the majority of cases the parents have little clout in the community and in most cases nothing is done (Hyman, 1990). In working directly with the parents who call or write about horrendous abuses, it is easy to lose a detached, objective, academic approach to the problem. How much more research do we need to show that too much abuse occurs when we permit authorities of the state to inflict pain on citizens, especially when those citizens are among our most vulnerable -- children with disabilities?

Do We Need "Good Old Fashioned Discipline"?

In the past decade there has been a call for a return to "good old fashioned discipline" -- and corporal punishment was always its mainstay (Hyman & D'Allesandro, 1984). But hitting school children was controversial even in Colonial days when the mythical Ichabod Crane liberally applied the hickory stick to the behinds of his errant charges (Greven, 1980). As Washington Irving demonstrated, the good old days were good for neither teachers nor students. Violence only begets violence.

Since Colonial days, we have reduced the extent of swatting in schools as citizens and educators struggle with the central issue -- is corporal punishment of students necessary, effective, or even advisable? Since the Courts are unlikely to provide a remedy to this problem, children must be protected by legislation (Hyman, 1978, 1990). In the case of Ingraham v. Wright (45.U.S.L.W. 4364 [4/19/47]) the United States Supreme Court almost certainly closed out the possibility of constitutional protection from abusive corporal punishment (Bacon & Hyman, 1979). While some might agree with the legal theory upon which Ingraham is based, the social science and pedagogical assumptions they made are subject to verification. Our integration of over 30 years of research and our own studies clearly demonstrate that the court was wrong and should reconsider the data (Hyman, 1978, 1988b, 1990).

The influence of Ingraham on judicial rulings at the state and local level is well illustrated in a Texas case in which the Supreme Court allowed a Fifth Circuit ruling to stand in the case of Cunningham v. Beavers (858, F. 2nd 269 (5th Circuit). This ruling supports Texas regulations that allow corporal punishment of school children up to the point of "deadly force." The Supreme Court of North Carolina in Gaspherson v. Harnett County (75 N.C. App23; 330 S.E. 2nd 589 [1985] Appeal denied, 314 N.C. 539 [1985]) relied on case law made in 1837 and 1904. The Court ruled that corporal punishment is allowed as long as the "beating is performed honestly in the performance of duty" and does not cause "long lasting mischief." Despite evidence of long lasting post-traumatic stress disorder in the victim, the Court apparently was bound by nineteenth century understanding of psychic trauma. They did not recognize the existence of the psychological sequelae of overly severe discipline which has been well documented in my own research and that of all of the literature on child abuse (Garbarino, Guttman & Seeley, 1986; Gelles & Strauss, 1979; Gil, 1970; Hyman, Zelikoff & Clarke, 1988; Pynoos & Eth, 1985).

The Facts About Corporal Punishment

Arguments against the use of corporal punishment in schools are based on facts and teachings from a variety of sources including: religion (Greven, 1980; Radbill, 1976); medicine (American Psychiatric Association, 1987; Pynoos & Eth, 1985; Krugman & Krugman, 1984); history (Gibson, 1978; Glenn, 1984; Manning, 1979; Miller, 1980); government data (Russell, 1988, 1989; Glackman, Berv, Martin, et al, 1978); newspaper articles (Clarke, Erdlen & Hyman, 1984; Clarke, Liberman-Lascoe & Hyman, 1982; Hyman, Clarke and Erdlen, 1987); special education (Hyman & Bogacki, 1984; Rose, 1984, 1989); personal anecdotes (Hyman, 1990); cross cultural studies (Babcock, 1977); experimental studies (Bandura, 1973; Bandura & Huston, 1961; Bandura & Walters, 1963; Bongiovanni 1979; Skinner, 1989); and sociology (Gil, 1970; Straus, 1989). The following is a summary of what we know about the infliction of pain as a method of educating children:

--- Corporal punishment occurs more frequently in the primary and intermediate levels (Hyman & Wise, 1979).

--- Boys are hit much more frequently than girls (Glackman, et al, 1978).

--- Minority and low income children receive lickings four to five times more frequently than middle and upper class white children (Farley, 1983).

--- Most of the corporal punishment in America occurs in states in the South and Southwest. Florida, Texas, Arkansas and Alabama have consistently been among the leaders in the frequency of hitting school children (Farley, 1983; Russell, 1989).

--- The least use of corporal punishment occurs in schools in the Northeast (Farley, 1983; Russell, 1988).

--- Contrary to popular belief, corporal punishment is not used as a last resort. In fact, studies suggest that corporal punishment is often the first punishment used for nonviolent and minor misbehaviors (Hyman, Clarke & Erdlen, 1987).

--- There is evidence that corporal punishment is associated with school vandalism (Hyman & Wise, 1979).

--- In descending order of support for corporal punishment are: school board members, school administrators, teachers, parents, and students (Reardon & Reynolds, 1979).

--- Very violent children are almost always frequent recipients of severe corporal punishment at home. Since hitting at home doesn't help them, it is just as useless and counterproductive in school. The old saw that "violence breeds violence" is supported by this finding (Hyman & Wise, 1979).

--- Corporal punishment is forbidden in the schools of continental Europe, Japan, England, Israel, the communist nations, Ireland, and other non-English speaking countries, Puerto Rico, 19 states, many suburban upper middle class schools and most of the largest cities of America (Hyman & Wise, 1979).

--- Teachers who frequently paddle tend to be authoritarian, dogmatic, relatively inexperienced, impulsive and neurotic as compared to their peers (Rust & Kinnard, 1983).

--- Teachers who don't paddle are most often those who were rarely if ever spanked or paddled as children. This modeling effect has been repeatedly demonstrated. The more teachers were hit as children, the more they tend to hit their students (Lennox, 1982).

--- Schools with high rates of corporal punishment also have high rates of suspensions, and are generally more punitive in all discipline responses than schools with low rates of corporal punishment (Farley, 1983).

--- Studies in West Virginia and Texas indicate that those principals who are most supportive of corporal punishment know the least about the research and literature on the subject. In fact, they tend to justify their support on the "inconclusiveness" of the literature which they admitted they had not read (Dennison, 1984; Risinger, 1989).

The following is a brief summary of reasons why corporal punishment is not a good idea. All of this is based on available research (NCSCPAS, 1988):

--- While corporal punishment temporarily suppresses behavior, it does not teach new behavior (Bogiovanni, 1979; Eron, Walter & Lefkowitz, 1971; McCord, 1988; Skinner, 1979).

--- Punishment, in general, is not effective in promoting new learning. The overwhelming evidence suggests that reward, praise, and interactions with children which promote the development of a positive self-concept are the most powerful motivators for learning (Hyman, 1990).

--- Excessive use of corporal punishment in the classroom decreases learning (Lamberth, 1979) and self-esteem (Hyman, 1987).

--- Corporal punishment arouses aggression in the pupils. This aggression may be against the teacher, peers or property (Bandura, 1973; Bandura & Huston, 1961; Bandura & Walters, 1963; Bogiovanni, 1979).

--- The use of corporal punishment teaches children that violence is the way to solve problems. Research shows that this message is taught to those who inflict the pain, to those who receive it and to those who witness it. School should not teach "might makes right." It does not help children develop internal controls which are necessary in a democracy (Hyman, 1990; Miller, 1980).

--- Studies demonstrate that eliminating corporal punishment does not increase misbehavior (Farley, 1983).

As a practicing professional psychologist, I was able to conduct clinical evaluations of children who were severely paddled in school. As I increased the number of assessments I was able to generate more research questions. This led to the identification of a syndrome which I call Educator-induced Post-traumatic Stress Disorder (EIPTSD), a sub-category of Post-traumatic Stress Disorder (PTSD) (Hyman, Zelikoff & Clarke, 1988b; Lambert, et al, 1988).

As the result of clinical studies of physically abused children, the sequelae of emotional damage emerged (Hyman, 1987a). The stress symptoms we identified in EIPTSD existed on a continuum. This realization led to explorations of psychological maltreatment in schools. We are currently examining the nature, extent and damage caused by all levels of psychological maltreatment because it is so closely tied to physical maltreatment (Garbarino, Gutman & Seeley, 1986; Hyman, 1987; Krugman & Krugman, 1984; Lambert, et al 1988). The data generated from these studies has helped to change attitudes about the underlying punitiveness that is related to the use of corporal punishment.

Our most recent research has focused on the demographics of all maltreatment of school children (Lambert, et al., 1988). A survey of students in a middle class high school in suburban Philadelphia indicated that at least 60% of the students experienced some stress related symptoms as a result of teacher maltreatment in terms of either physical or psychological assault. Ten percent of these (5% of the school population) suffered symptoms of such intensity, duration, and frequency that they were likely suffering some level of EIPTSD. Other data from retrospective studies support these findings (Hyman, Zelikoff & Clarke, 1988). We are now gathering data from schools with other SES distributions.

Our research suggests that while physical abuse is a problem in some parts of the country (15% in our suburban Philadelphia sample who responded indicated physical abuse as the reason for their symptoms), the level of psychological maltreatment of students by educators is quite widespread.

Child Abuse and Corporal Punishment

The most devastating argument against the use of corporal punishment is its connection with child abuse. I believe you have heard or will hear more about this from child abuse experts. They may tell you that almost all aggressive, violent children have become that way because of the excessive use of corporal punishment in the home. My own experience as a consulting school psychologist and practicing professional psychologist is that I have rarely seen an aggressive, emotionally disturbed child who has not been the victim of excessive corporal punishment, either in the home, school or another setting. These children, often in special education programs, should never be hit in school since much of their aggression was caused by hitting (Hyman & Bogacki, 1984). To continue the cycle of aggression by the child and counter-aggression by the teacher is highly destructive to both.

Children with learning and developmental disabilities often have low self-esteem. It is not unusual, especially when they are hyperactive, for them to have been hit excessively. Retarded children and adults have historically been the victims of corporal punishment because of factors they often cannot control. Inflicting physical pain on these children only decreases their self-esteem and causes depression.

Many severe cases of school related corporal punishment would have resulted in child abuse convictions if the parent had been the punisher. However, under current law, educators have, with impunity, caused traumatic physical and psychological damage to school children (Hyman, 1988a, 1988b). Most courts are reluctant to become involved in defining the extent and reasonableness of school discipline practices. As a result, educators have legally beaten children severely enough to leave welts, hematomas, lacerations, fractured bones and nerve damage (Hyman, Zelikoff & Clarke, 1988). Educators, especially physical education instructors and coaches, have insisted on exhaustive and unreasonable exercises which have resulted in serious injury and sometimes death. I have documented hundreds of such cases. Mr. Chairman, what does it say about us as a nation when we support educators who insist that they must be allowed to inflict pain on children in order to promote learning?

Public Attitudes are Changing

Traditionally, most Americans believed that children needed and deserved to be hit when they misbehaved. I am sure you have heard some of the following statements in support of inflicting pain on children:

--- "Sometimes you need corporal punishment to get a child's attention."
--- "If we don't have corporal punishment as a 'last resort' in the classroom, kids won't have anything to fear - they won't behave."
--- "I was spanked when I was a kid and it didn't do me any harm."
--- "The Bible says, 'if you spare the rod you will spoil the child.'"
--- "If parents use spanking at home, it's the only thing the kids understand in school - if you don't do it they will think you're soft."

Every one of these arguments can be easily answered with factual responses, but that is beyond the scope of this presentation (Hyman, 1990). Yet, traditional beliefs almost always persist, despite contradictions.

I would like to share with you the results of a Harris Poll which was released last summer by the NCSCPAS (Hyman, 1989). I understand that these data do not directly address the issue of corporal punishment of handicapped children, but the results do indicate changing attitudes toward corporal punishment.

Respondents to this poll were a random, statified sample of 1250 Americans. The detailed statistics are available in Using Advocacy Research to Change Public Policy: The Case of Corporal Punishment in the Schools (Hyman, 1989) which is included in the materials I presented to you.

An important finding of the poll is that Americans are moving away from support for corporal punishment in the home and school. This is very significant data for policy makers since support in the home is a basis for support in school, and it appears that backing for paddling in school has declined dramatically. This decline is probably related to increasing education in effective methods of child rearing and discipline (Mishkin, 1987).

Straus (1989) indicates that until recently, 90% to 95% of Americans approved of parental spankings; yet, the new Harris poll demonstrated that now only about 86% of the respondents support this practice.

A recent Gallup Poll of teachers showed that only 38% disapprove of school paddlings, despite NEA policy against it (Elam, 1989). In comparison, the Harris poll showed that 54% of parents were against school paddlings. This difference suggests that this Committee should carefully consider not only the research evidence, but the feelings of most Americans.

A study conducted by a high school student in Louisiana, under the auspices of the NCSCPAS, revealed data about attitudes toward the use of corporal punishment with special education students (Cotham, Straus, Vargas-Moll & Hyman, 1987). A sample of 353 respondents, including educators and students from three schools in middle class communities, revealed that 53% approved of the use of corporal punishment on males. Thirty-nine percent approved its use on females. Even with this relatively high support rate, 90% said it should never be used on handicapped students.

According to the Harris Poll, most of the objection to corporal punishment in the school is in the East, where 66% of the respondents are against it. Only 33% of the respondents from the South are against it.

Several years ago I had an interesting experience indicating how parent's views can be changed by the data. This occurred in the rural town of Walterboro, South Carolina. In cooperation with a professor from the University of South Carolina and a local advocate, I made a presentation to 450 people, including parents, teachers and students (Kijai, Oropello & Hyman, 1988). The presentation of facts, vivid pictures of bruised bodies and a discussion of alternatives to corporal punishment resulted in a significant change of attitudes by parents. While teachers' and students' attitudes towards corporal punishment remained the same after the presentation, parents' attitudes shifted significantly against corporal punishment. When parents are given the facts and taught alternatives to hitting children in school, they can give up traditional attitudes.

Alternatives to Corporal Punishment in Schools

I urge you to consider corporal punishment within the larger issue of school discipline. This topic is charged with emotion, since our attitudes toward discipline are shaped by many factors. These include: our own experiences as children, our feelings about parents and teachers who spanked or paddled us, our religious beliefs, our political orientation and where we live. Each year we learn from Gallup Polls published in the Kappan that the public feels discipline is the top problem in the school. The public holds strong beliefs about discipline in schools which are more often shaped by the media than by reality. Overestimates of school violence lead to more cries for harsh punishment (Human & D'Allesando, 1984). The following is a very brief discussion of effective alternatives to corporal punishment in schools.

Most educators who use corporal punishment claim it is a "last resort" - a technique used to "get the child's attention" when all else fails. Yet, my experience and a great deal of research indicates that this is not the case. In fact, a variety of other factors, many discussed previously, determine who gets paddled.

If you have the opportunity to listen to the testimony of an educator who supports the use of corporal punishment, I respectfully suggest that you keep in mind the types of questions which I use when consulting on discipline problems. I ask the teacher to describe an incident in which he/she felt compelled to swat a student. I try to convince the teacher that if one wants to correct a child's misbehavior, first find out *why* the child misbehaved thing. The answer to the problem may be related to any of the following which apply to all children in school:

1. Has the child learned inappropriate behavior from the home? Are the parents overly punitive or too permissive? If the child is aggressive, you can bet one of the parents is aggressive with the child.

2. Is the school so large that the child is "lost in the shuffle"? Many children have difficulty adjusting to large schools, and therefore need more individualized attention.

3. What about the ecology of the classroom? If the teacher is spending a lot of time disciplining, don't always blame the students. Examine the physical and instructional organization of the classroom. For instance, semi-circular desk arrangements are better for eye-contact and physical proximity. Curricula that are too difficult or too easy for individual children are a sure formula for disruption. Does the teacher handle periods of transition from one activity to the next quickly and smoothly? Are punishments reasonable and consistent? Finally, consider that good disciplinarians spend most of their time catching kids being good, not bad.

4. Does the pupil belong to a peer group which values learning? If not, can the teacher affect the peer group's orientation? For instance, many teen-agers are very easily influenced by their peers. What can the teacher do to influence the direction and activities of the group? Can they be redirected by providing healthy activities through the support of parents, community agencies, clubs or groups such as the Scouts, Little League, Y's, etc.? These community based groups still offer one of the best sources for healthy activities. Even in the case of street gangs, well-trained youth leaders have proven that the destructive behavior of troubled teen-agers can be redirected.

5. Many children now come from divorced families. The children may be living in either blended families or with their single fathers or mothers. In the latter case especially, financial problems and societal restrictions may result in misbehavior. Lack of adequate day care, scarce public transportation and distance from relatives all present problems which may result in children's loss of motivation to behave in school. Also, the stress of the divorce process and ongoing post-divorce parental battles quite frequently overflow into the classroom.

The above are just some of the factors which are necessary for understanding why students misbehave. The next problem is to figure out what to do.

At the National Center we have identified seven different types of approaches for solving discipline problems (Hyman & Lally, 1982). They are: behavioral, psychodynamic/interpersonal, ecological, humanistic, sociological, and biophysical. The seventh approach is based on a study of the processes in all the other techniques. The following suggestions do not require a lot of training, and should be helpful if teachers use them systematically.

Whenever possible, teachers should use INFORMATION FEEDBACK. They should reflect, restate and accept student's feelings and ideas. One does not have to approve of everything a student does or says, but one can accept their thoughts and feelings as genuine.

PRAISE AND REINFORCE GOOD BEHAVIOR. However, if this is done gratuitously or automatically, it will have no effect. A pat on the back is always a good idea. A good teacher will try to ignore minor misbehavior. If a teacher must punish children, LOSS OF PRIVILEGE should be used. This should be done in an unemotional manner.

If a particular child is giving the teacher a hard time, she should try to OBSERVE AND RECORD what he does, and when he does it. If the teacher keeps good notes, he or she can often diagnose problems on his or her own.

Teachers should make sure that the CLASSROOM ECOLOGY facilitates good behavior. For instance, 90 degree temperatures on a hot Friday afternoon are bound to lead to problems if one tries to push the children. Also, a well-organized classroom will set the climate for orderly behavior.

Teachers should encourage students to develop PROBLEM SOLVING STRATEGIES to deal with aggression, name calling, etc. They should have class meetings and discuss movies, television, and newspaper accounts which suggest physical aggression to solve problems. By doing this, they can point out acceptable alternatives to aggression.

Teachers need to APPROPRIATELY EXPRESS FEELINGS. It is okay for one to be tired, short tempered and angry. After all, a teacher is human, and if he doesn't try to act like a human, he won't be perceived as one. If you, the teacher, overslept and got caught in a traffic jam, tell the children that you are feeling frustrated and angry, so that they don't personalize it. When teachers are angry at a child's behavior, they should condemn the behavior, not the child.

Even in cases with severly disturbed children, it is not appropriate to hit them when they become aggressive or violent. When teachers are well-trained and administrators are well-organized, schools have plans for the use of effective therapeutic restraint without hurting the student. Teachers can learn how to prevent actual aggression by students by learning techniques for defusing potentially violent situations.

Why Current Controls of Abuse of Children With Disabilities Don't Work

Special education students in affluent areas of the country are rarely hit by teachers. Disabled students in the nineteen states which abolished corporal punishment are protected. Why, then, are we asking you here today to ban corporal punishment through a federal legislative initiative? First, children who are poor, disenfranchised and living in certain areas of the country are subject to unreasonable uses of corporal punishment. Second and most important, well-intentioned professionals, especially school psychologists, do not seem able to protect children with disabilities from the wrongful use of the infliction of pain.

During the last decade I have spoken to many school psychologists working in districts where special education students have been spanked, hit and paddled despite contraindications. The victims often have histories of abuse in the home and a fear of school as a result of the hittings. Pain often escalates anger and aggression in children with behavioral problems. Even though school psychologists, with teacher cooperation, can demonstrate the efficacy of reward over punishment, punishment prevails far too often. When school psychologists and other professionals attempt to bar the use of corporal punishment by forbidding it in the individualized education plan (IEP), there is often subtle or overt pressure against this, especially in areas where corporal punishment is widely accepted in schools (Hyman, 1989, 1990). In some situations, the psychologist's opinions are merely overruled. Parents, who by law do not have to sign an IEP which they are not in agreement with, are often pressured to agree to the use of corporal punishment against their wishes. Mr. Dwyer, of the National Association of School Psychologists, will expand upon this during his testimony at this hearing.

Summary and Conclusion

In summary, discipline is a complex problem, especially with children with disabilities. Solutions to behavior problems require thoughtful consideration and positive approaches. There are hundreds of effective, positive ways to prevent misbehavior and to discipline children without hitting them (Hyman & Lally, 1982). The Office of Education, the former National Institute for Education, the National Institute of Mental Health and the Office of Juvenile Justice are among the many federal agencies which have published numerous studies and monographs relevant to appropriate, non-violent solutions to disciplining children with a variety of behavioral and developmental problems. The discipline file at the NCSCPAS (1989) is replete with these publications which are too numerous to list here. None of the programs I know of rely on corporal punishment.

I hope that this Committee will consider the data from researchers, practitioners, and scholars who overwhelmingly are against the use of corporal punishment with students - especially students with disabilities. There are no data-based arguments to support the use of violence upon the bodies of children. It is bad for the children, it is bad for the people who administer it and it is bad for our society. It only adds to the unacceptably high levels of violence to which Americans are exposed every day of their lives through the media and through actual experiences of abuse in the homes and assaults on the street. Mr. Chairman, I believe that there is no need for more research. It is time to take action and I commend the Committee for holding hearings on this matter.

I will be happy to respond to any questions. If I can be of further assistance, please feel free to contact me at the National Center for the Study of Corporal Punishment and Alternatives in the Schools, Temple University, Philadelphia, Pennsylvania 19122 (215/787-6091).

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Mr. Owens. Thank you.

Dr. Dwyer. Mr. Chairman, I'd like to introduce Mrs. Allison, Sharon Allison and her son, Steven, who would like to talk about the corporal punishment that Steven had received.

Mr. Owens. Thank you. Again, state your name for the record, please.

Ms. Allison. My name is Sharon Allison. My testimony will be about my 13 year old son, Steven Allison. Steven is now in the 7th grade at Montville School in Blount County, Tennessee. Steven started school in 1981. He was certified visually impaired in kindergarten. He was also identified as learning disabled and has an attention deficit disorder.

Steven did fairly well in kindergarten even though his vision was 20/100 in his right eye and we were dilating his left eye to build the vision in the right. When Steven started first grade, he began to have problems. He did his work very well but worked at a slow pace. He had problems finishing this work. During this year is when he was paddled for not finishing his work, something that was beyond his control.

I watched a young, eager child yearning for knowledge and approval lose his self-confidence. In Steven's case, he began to act out in other ways to compensate for his feelings of frustration; in other words, it made Steven's problems worse. In second grade Steven was paddled for not having his book and homework. There was another time when Steven did not want to go to school for four days in a row. This was very unlike Steven because this was the third year that he had not missed a day of school.

On Friday morning he cried and said, "I'm going to get a paddling because I can't find my math workbook." I told Steven to go to school and I would be there before school started. He told me the teacher had threatened him all week with the fact that if he did not find his workbook by Friday morning, he would be paddled.

I went to school and told his teacher that I felt she had been wrong by the way she had handled the loss of his book. I told her not to paddle him. She did not paddle him this time, but she let me know how upset she was with me for questioning her judgment. On Monday Steven came home from school very excited and said they had found his workbook. Another child had picked it up thinking it was his own and put it in his box.

Steven was seven years old and had only completed three years of school when he had experience of being hit by a paddle, humiliation and pain. I knew what was happening to Steven in school was doing a lot of damage but I did not know how to stop it. I felt helpless at times. The paddle was so easy to use and was used unjustly in Steven's case. We can just imagine how Steven felt.

What I did not realize is that sometimes it's just as difficult for the teacher to recognize and understand a child with disabilities because of their lack of knowledge and training concerning these children. Another teacher told me one day that she would like to jerk him out in the hallway and paddle him for talking in class. I told her there are better ways to handle this without hurting him.

I am more outspoken now with my child and his education. I feel the paddle can do so much damage mentally and physically. I cannot take away what happened to Steven in his younger years in school but we can stop this from happening to other children.

Steven has had a perfect attendance record for eight years. He is hoping for his ninth year. But he gave that up to come and tell you what he feels on corporal punishment of the handicapped. You must know how important it is to him.

For a few years I have told them that they couldn't paddle Steven or punish him without my knowledge. This year I wrote a letter to the principal and superintendent telling them that they could not paddle him. At one time I had given them permission to paddle because they made me feel like it was the only way.

After they received my letter, the school board's attorney responded with another letter telling me they'd do what they had to do without my input. I wrote yet another letter stating that they did not have my permission to strike my child.

They know my feelings, but if they decide to paddle him, I really have no recourse because Tennessee Law Number 49-64104 which states under Tennessee law any teacher or school principal may use corporal punishment in a reasonable manner against any pupil for a good cause in order to maintain discipline and order within the public school.

When Steven and I decided to testify before this subcommittee we felt very good about it. It is now something we feel very strongly about. Being paddled for reasons such as I have described is something that should not happen to a child with limited ability.

I need to tell you what has happened in the past week because of our decision to tell what happened to Steven in the past. As I said before, Steven has not missed any days of school so I went to the superintendent with a request asking, because of his record attendance could it be considered an educational trip. This was turned down because a teacher would not be with him.

What happened after this to me was appalling. One of our local newspapers found out Steven was going and asked to do a story about how a boy from Blount County was going to Washington to talk before a hearing on corporal punishment concerning children with disabilities. They seemed to think this story was special. The story ended up hurting my son.

The principal and other school officials called a press conference. Attending the conference were two members of the press, teachers, a principal, three parents who have children in the same school my son attends.

At this conference, without my permission, my son was discussed along with his school records. I would like for you to see the film that was shown on TV. My son's personal records were released for everyone to see. They allowed other parents to judge him from personal records when they didn't even know us or anything about what Steven had been through.

I would like to read a statement by a teacher that was in the newspaper. One of his second grade teachers has on record that she paddled him once for allegedly lying about not having his book and homework on two different occasions. The teacher located the material in a student's desk both times. When I read this statement about my son for everyone to see I was very upset for Steven. He was hurt again.

It sounded like they were talking about a criminal instead of an eight year old child. For them to paddle a child with problems anyway for something this minor, but then have it printed in the local newspaper is beyond comprehension for me.

In this same article the principal said that Steven's school is one school that uses corporal punishment sparingly. I believe there is a conflict in these statements. Paddling a child with disabilities for not having his book and homework is not "sparingly" as far as I'm concerned. Also, letting three parents sit in on this meeting where my son's records were opened and then tell their judgments of Steven was very unprofessional of them all.

They did not tell that our school system did not have a certified vision teacher for three years and that Steven lost three years of valuable training in his visual skills, that I was led to believe the teacher was certified. When I finally found out she was not certified, I knew why she had not worked with Steven. She kept telling me Steven did not need help.

I told the board members that by law they had to have a certified teacher for Steven at the beginning of the next school year. They did comply and hired a certified teacher for him this year. I wasn't alone anymore because I had an employee from the Department of Education and someone from EACH to help me.

I guess this is what they meant in the newspaper articles when they said I was difficult to work with. When it comes to my son's welfare, I will speak out for him. Steven's teacher is supposed to be here today for this hearing. She is an excellent teacher and has been very good for Steven. It shows with his work at school.

I have told you now how I feel about corporal punishment used on children with disabilities, but you, as our leaders, have the power to establish a law to stop it. It is in your hands to protect our children. Thank you.

[The prepared statement of Sharon Allison follows:]

February 21, 1990

Special Education Hearing/Testimonial

My name is Sharon Allison and my testimony will be about my thirteen year old son, Steven Allison. Steven is now in the seventh grade at Montvale School in Blount County, Tennessee.

Steven started school in 1981. He was certified visually impaired in Kindergarden. He is also identified as learning disabled and has an attention deficit disorder. Steven did fairly well in Kindergarden even though his vision was 20-100 in his right eye and we were dilating his left eye to build the vision in the right.

When Steven started first grade he began to have problems. He did his work very well but worked at a slow pace. He had problems finishing his work. During this year is when he was paddled for not finishing his work, something that was

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beyond his control. I watched a young eager child yearning for knowledge and approval lose his self-confidence. In Steven's case he began to act out in other ways to compensate for his feelings of frustration, in other words it made Stevens problems worse.

In second grade Steven was paddled for not having his book and homework. There was another time where Steven did not want to go to school for four days in a row. This was very unlike Steven because this was the third year that he had not missed a day of school. On Friday morning he cried and said I'm going to get paddled because I can't find my math workbook. I told Steven to go to school and I would be there before school started. He told me the teacher had threatened him all week with the fact

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that if he did not find his workbook by Friday morning he would be paddled. I went to school and told his teacher that I felt she had been wrong by the way she had handled the loss of his book. I told her not to paddle him. She did not paddle him this time but she let me know how upset she was with me for questioning her judgement. On Monday Steven came home from school very excited and said they had found his workbook. Another child had picked it up thinking it was his own and put it in his box. Steven was seven years old and had only completed three years of school when he had experienced being hit by a paddle, humiliation and pain.

I knew what was happening to Steven in school was doing alot of damage, but I did not know what to do to stop it.

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Page 4

I felt helpless at times. The paddle is so easy to use and was used unjustly in Steven's case. We can just imagine how Steven felt.

What I did not realize is its sometimes just as difficult for the teacher to recenize and understand a child with disabidities because of their lack of knowledge and training concerning these children.

Another teacher told me one day "She would like to jerk him out in the hall and paddle him for talking in class." I told her there are better ways to handle this without hurting him.

I am more outspoken now with my child and his education. I feel the paddle can do so much damage mentally and physically. I cannot take away what happened to Steven in his younger years in school but

but we can stop this from happening to other children.

Steven has had a perfect attendence record for eight years. He was hoping for his ninth year, but he gave that up to come and tell you what he feels on corporal punishment of the handicapped. You must know how important it is to him.

For a few years I have told them they could not paddle Steven or punish him without my knowledge. This year I wrote a letter to the Principle and Superintendent telling them they could not paddle him. At one time I had given them permission to paddle because they made me feel like it was the only way.

After they received my letter, the School Board's attourney responded with another letter telling me they would do what they had

Page 6

to do without my imput.
I wrote yet another letter stating they did not have my permission to strike my child. They know my feelings, but if they decide to paddle him I really have no recourse because of Tenn. Law #49-6-4104 which states:

Under Tenn Law, any teacher or school principle may use corporal punishment in a reasonable manner against any pupil for good cause in order to maintain discipline and order within the public School.

When Steven and I decided to testify before this Subcommittee we felt very good about it. It is now something we feel very strong about. Being paddled for reasons such as I have described is something that should not happen to a child with limited ability.

I need to tell you what has happened in the past week

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because of our decision totell what happened to Steven in the past.

When we decided to come here I went to the school principle and requested Stevens absence to be excused for these days. As I said before Steven had not missed any days of school, so I went to the Superintendent with a request asking because of his record of attendence could it be concidered an educational trip. This was turned down because a teacher would not be with him.

What happened after this is to me appauling. One of our local newspapers found out Steven was going and asked to go a story about how a boy from Blount County was going to Washington to talk before a hearing on Corporal Punishment concerning Children with Disabidities.

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Page 8

They seem to think this was a special story. This story ended up hurting my son. The Principle and other School Officials called a press conference. Attending the conference were two members of the press, teachers, principle, three parents who have children in the same school my son attends. At this conference without my permission my son was discussed along with his school records. I would like for you to see the newspaper articles. My sons personal records were released for everyone to see. They allowed other parents to judge him from personal records when they didn't even know us or anything about what Steven had been through. I would like to read a statement by a teacher in the newspaper "One of his second grade teachers has on record that

She paddled him once for alle lieing about not having his book and homework on two different occasions. The teacher located the material in the students desk both times" When I read this statement about my son for everyone to see I was very upset for Steven. He was hurt again. It sounded like they were talking about a criminal instead of an eight year old child. For them to paddle a child with problems anyway for something this minor but then have it printed in the local paper is beyond comprehension for me.

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They did not tell that our school system did not have a certified vision teacher for three years and that Steven lost three years of valuable training in his visual skills. That I was led to believe the teacher was certified. When I finally found out she was not certified I knew why she had not worked with him. She kept telling me Steven did not need help.

I told the board members that by law they had to have a certified teacher for Steven in July of 1986. They did comply and hire a Certified teacher for him this year. I was not alone anymore, because I had an employee from the State Education Dept. and someone from E.A.C.H to help me.

I guess this is what they meant in the newspaper articles when they said I was difficult to work with. When it comes to my son's welfare I will speak out for him.

Steven's teacher, is supposed to be here today for this hearing. She is an excellant teacher and has been very good for Steven. It shows with his work at school.

I have told you how I feel about corporal punishment used ~~with~~ on children with disabilities but you as our leaders have the power to establish a law to stop it. It is in your hands to protect these children.

Thank You
Sharon Allison

Mr. **Owens**. Thank you.

Mr. **Allison**. My name is Steven Allison. I'm 13 years old and I live in Merryville, Tennessee. I go to a Blount County School, Mountville Elementary School. The reason I am here is I have a learning problem.

At the age of two and a half I was fitted for my first pair of eye glasses. When I was four, a doctor started putting patches on my eye. I also have been told I have no depth perception. I also get confused and have trouble concentrating on my work I am doing, especially school work.

When I can't concentrate on my work, I would get yelled at. Sometimes I would get put out in the hall. The teachers would make me do sentences. There was lots of times I had to stay in during recess and do work. They told me I was going to fail. I even got paddled for not being able to do my work. I think it is unfair paddling me for not getting my work done when I tried so hard.

Now that I'm older, I realize that they hit me with a board for not finishing my work. If you were on a job and didn't finish your work, they wouldn't hit you with a board. So, why can it happen in school to children?

I've tried my best to stay in school and not miss any days, which I have done for eight and a half years. I hope this week which I am missing that I am here is to try to see that no other child is paddled for not finishing his or her school work when they couldn't, just like I haven't been able to do.

When they paddled me, it made me feel like I was always doing something wrong and it was—and I was beat. I don't want any child to feel like that. I've even had school teachers tell me that I was stupid, was never going to go anywhere in life. But that is not true. I will go somewhere in life and I'm not stupid. I'm just a slower learner than most people.

Mr. **Owens**. Take your time, Steven. You can pause if you wish.

Mr. **Allison**. I look like I have no problems because I look like a normal average child. But my eyes are different—I can only see out of one eye—and my mind is slower. But I'm human and I have feelings which have been hurt by the school people, not to mention the fact that they have made me, a kid, look like I've done so much wrong and against them with their newspapers, radio news and television news when I am the victim and they hurt me with their paddlings and their threats.

They took away my self-confidence and made me feel worthless. So, please, I beg you that can change this law, remember us children with an open heart and an open mind.

Thank you.

[The prepared statement of Steven Allison follows:]

P.1

My name is Steven Allison. I live in Marryville T.N. I go to a Blount County School. Montvalle Elementery. The reason that Im here is because I have learning problems. At the age of 2½ I was fitted for my first pair of eye glasses. When I was four years old docters started putting patches on my left eye I've also been told that I have no Depth Persepthon. I also get comfused and have trouble concentrating on what I am doing. Expechualy school work. And when I couldont concentrat on my work I would get put out in the hall and get yelled at. The teachers would make me do extra work like sentances I even got pattled for not geting my work done. I thank it is unfair (Pattlingme) for not getting my work done when I tried so hard to finish it. Now that I'm older I relise that they hit me with a borde for not finishing my work. If you were on a job and you didont get your work done they couldont hit you with a borde So why can it happen in school to children. I've tried my hardest to stay in school and not miss any days of school. Which I've done

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P.2

for eight½ years now. But this is more important then my perfect atendance. I'm here to see that no other child is patoled for not finishing their work when they can't. Just like I haven't been able to. I'm not using this as a excuse. When they patoled me for somthing I didn't understand it made me feal like I was always doing something wrong and was a mean chidd. I don't want any child to feal like that. I've had school teachers tell me that I was stupid and I would never go anywhere in life. That is not true I will go somewhere in life and no I'm not stupid. I'm just a slower learner then most people. I look like I have no problems. Because I look like a normal awrige chidd. But my eyes are diferent and my mind is slower. But I'm human and I have fealing to which have been hurt. Not to mincon the fact that they have made me, a kid look like I've done so much wrong and against them with they're newspapers, radio new, and televishon news.

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P.3

When I am the victem [illegible] and they hurt me with they're paddlings and theyre threats. They took away my selfcofidence and made me feel worthless. So Please I beg you that can change the laws remember us children with an open hart and mind

Thank you!

Steven Allison

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Mr. **Owens**. I want to thank you very much for coming, Steven.

Dr. Hyman, you said that you have amassed statistics and evidence that shows that children with disabilities are punished more——

Mr. **Hyman**. Yes.

Mr. **Owens**. [continuing] or suffer more from child abuse and suffer more from abuse in schools.

Mr. **Hyman**. Yes. Let me first say that what's happening here is common with the post-traumatic stress disorder that I've identified with children who have been beaten in school. They get a flashback of experience and they cry, even five, six, seven years later. I didn't even believe it until I started interviewing teachers and adults who had had these experiences in school years before, 30 years before sometimes. That's all documented in my book.

Nobody really knows the extent of corporal punishment in America. In your folder, coincidentally, there is a clipping from a newspaper in Tennessee which shows that in Nashville, Tennessee I think was 116 percent or 216 of the blind and crippled children were paddled.

Now, the problem with the data is that you don't know whether it's ten kids being hit once or one kid being hit ten times. So that the few studies that we've done on special ed children shows that they seem to be more vulnerable. Again, the data that's based on the Office of Civil Rights is very difficult to interpret because of the sampling procedures which I won't bore you with but are in there.

My estimate is in general probably about two to three million incidents of corporal punishment take place each year. We don't really know what percentage of them are special ed cases. But the cases that I showed you very frequently are children from special ed classes.

When I get calls—and I get calls every week from around the country of cases like this—I would say about 75 percent of them are children who are learning disabled or emotionally disturbed or have behavioral problems. Many of them can't help, as this young man can't help, the way they function. They are functioning either at a slower rate or, if they have a learning disability, they may be more confused, they may not be able to locate things as easily, and they are hit for things that they can't control.

So, we don't really know the exact figures is what I'm saying.

Mr. **Owens**. Did you say also that most of the industrialized nations in the free world and the communist world as nations forbid corporal punishment?

Mr. **Hyman**. Absolutely. All of Continental Europe, as is indicated in the testimony. In the Western industrialized world most of the children who are being hit in schools are being hit in America, Canada, parts of Australia and parts of New Zealand. England gave it up.

Mr. **Owens**. Do you think it does any harm to youngsters who have disabilities to be treated differently if we were to make this—retain this amendment, if it should pass. It protects the youngsters who have disabilities, but their colleagues in the classroom who are not protected—would it give them some kind of complex to be treated differently?

Mr. **Hyman**. Well, I must admit that after 13 years in this field it's the first time that I've heard that unique argument for protecting children's rights, that it will make them different.

We, in our society, feel that the state has a right to protect children. In our legal system we protect them from abuse, even though as far as the history of America is concerned there have been groups that have said that husbands own wives and children, that school teachers have in local parenti, and so forth. But we've passed laws.

Public Law 94-142 made special education special. It gave parents extensive due process rights because the law recognized, as this parent here has experienced, that working people, people who don't have clout in communities, are helpless in the system. This, again, is all documented in my latest book.

So, that's the most specious fallacious argument I've ever heard. That by protecting handicapped kids from being legally abused we're making them different. I mean, I just can't understand that argument at all.

Mr. **Owens**. Dr. Dwyer.

Dr. **Dwyer**. Mr. Chairman and Mr. Bartlett, I think that if we look at the research that has been done, we know, first of all, that 98 percent of the principals who use corporal punishment and have handicapped children in their schools use it on handicapped children. We know that.

We can estimate from taking the office of——

Mr. **Owens**. You have data which——

Dr. **Dwyer**. There was a study done in 1983 by Rose and that study was done on 324 schools in 18 states across the United States.

Mr. **Owens**. Will you please submit that for the record.

Dr. **Dwyer**. That will be.

Mr. **Owens**. Without objection, I'll accept it into the record.

Dr. **Dwyer**. It is in my testimony, yes.

Mr. **Bartlett**. Would the gentleman yield?

Mr. **Owens**. Yes, sir.

Mr. **Bartlett**. The data is 98 percent of principals who use corporal punishment use it on disabled children or——

Dr. **Dwyer**. Yes.

Mr. **Bartlett**. [continuing] or have the authority to use it?

Dr. **Dwyer**. No. Ninety-eight percent of the principals reporting in that study who used corporal punishment reported that they used corporal punishment on handicapped children. Fifty percent of them reported in one area, in the mountain area of the United States—fifty percent used corporal punishment 11 or more times per month, or 110 times a year, on children classified as retarded.

Mr. **Bartlett**. If the gentleman would yield, how does that compare with persons who are not disabled in the same school?

Dr. **Dwyer**. The study was not done on those data, to gather data on the other students.

The point was well made by Dr. Hyman, that students who are handicapped are frequently punished more than non-handicapped students, and basically their cognitive, their neurological, their perceptual abilities sometimes cause them to engage in behaviors which are perceived as defiant behaviors on the part of some untrained teachers.

It is quite obvious that this corporal punishment is used. We have an example from Texas, Kathy Yoner from Magnolia, Texas, of a four year old Down's Syndrome child who when his teacher's name is mentioned he says, "spank." This child has been spanked by the teacher several times, a four year old Down's Syndrome child with an implant in his heart, who can't walk, who has limited hearing——

Mr. OWENS. Will the gentleman yield?

Mr. BARTLETT. I yield, Mr. Chairman.

Mr. OWENS. Is that in a public school?

Dr. DWYER. This is in a public school in a special education program supported under the Federal law. I have copies of her testimony which I could submit.

I guess the whole point here is that what we want to do is to try to focus on why under Public Law 94-142—why are we focusing on Public Law 94-142? I think it's quite obvious. These children are much more vulnerable than other children. Their self-esteem is much more vulnerable to attack. It has been documented that it's being used and it's being used severely in certain regions of the country.

If you live on the Pacific Coast or you live in the Northeast and you are a disabled child, you have no chance of legally being paddled. But if you live in the mountain states and you are retarded, you have a likelihood of being paddled. The purpose, I think, very frequently of Federal laws is to make certain that everybody is treated equally and that they have the same kind of civil rights.

It is amazing to me that this is not considered cruel and unusual punishment only on children in school. If they were in a residential facility for emotionally disturbed, if they were in a jail or prison for delinquents, they could not be paddled. But in school they can be, and if they're disabled they can be.

It's my opinion, sirs, that if we can't help a six year old child learn to write without paddling him with one of those things over there, then we have to rethink what special education is.

Thank you.

Mr. OWENS. My final comment would be to look at where the world is going and what we know about violence versus nonviolence, and violence seldom gets a positive result. Violence has been rejected at every level, including on the international plane of relations between states. To perpetrate violence against helpless victims is moving civilization in the wrong direction.

While we should work to get some correction made on the National scene in terms of laws which are broader than just this particular bill that we have today, we should do that, but we have the bill before us now which does have jurisdiction and we will make every attempt possible to make the tail wag the dog. If we don't have it now in all of our laws related to education, we will try to at least have it begin by protecting youngsters with disabilities.

I yield to Mr. Bartlett.

Mr. BARTLETT. Thank you, Mr. Chairman. I must say that the panel as a whole presents some very effective testimony. Dr. Hyman, I do want to explore with you your thought that you had never heard before the idea that two different sets of disciplinary proceedings, one for disabled children and one for non-disabled children would in fact be disruptive to the disabled.

Have you talked with principals or with teachers who use corporal punishment?

Mr. **Hyman**. Yes, I have. Unfortunately you weren't here at the beginning of my testimony. I have been a school psychologist and a teacher—I taught in a small rural school for four years in New Jersey, and I've been a school psychologist since 1960, plus a researcher and trainer of school psychologists.

I've done workshops all over the country. You will get a videotape tomorrow from Texas that I made for the Tie-in Network. I don't know if you're familiar with the Tie-in Network, which is a satellite network for instructional television—interactive television—in Texas and the Southwest.

A study done in Texas recently, and it's cited in my testimony, and a study done in West Virginia showed that support for corporal punishment by administrators was in direct correlation with lack of knowledge of the literature. That is, the less the administrator knew about the literature on effective discipline, they more the supported corporal punishment.

Most often the reason they gave for supporting corporal punishment was the inconclusiveness of the literature which they hadn't read. So, there's a problem with talking to some administrators.

I do workshops all over the country, as I said. I've done them in Houston, in Dallas and San Antonio, and so forth, in Texas. I would say there are three groups of administrators that would react to the kind of statement you're making.

There's one group who has studied the literature. They're usually better educated than the general run-of-the-mill of administrators, and they generally read the literature and they're against corporal punishment. Their districts——

Mr. **Bartlett**. In all cases?

Mr. **Hyman**. In all cases. For instance, in New Jersey we haven't had corporal punishment for over a hundred years. The administrators there don't even think of it as a disciplinary alternative. As compared to Tennessee—we did a study looking at administrators and teachers in Tennessee, Texas, New Jersey and Pennsylvania, and found that attitudes in the states where they don't have corporal punishment are such that they don't think of even hitting a kid. They have other effective ways of discipline.

So that you've got the one group that I would say would be—of course in my view—the enlightened people, the people who read the research and believe that you can learn from books. The second group are the moderates—I would call them the moderates—who live in the areas where they just don't know any better but they're willing to look at data. Those people usually can be convinced, as I've talked about the experience in Walterboro, South Carolina, about addressing people who want to listen.

The third group are the people who are punitively oriented and no matter what you say to them—many of them believe that God demands that you must spank kids. They take that——

Mr. **Bartlett**. Dr. Hyman, you're certain you're not stereotyping people here?

Mr. **Hyman**. Well, I'm trying to give a group of three—you asked me about administrators and what the reactions are, and I'm saying there's three groups of administrators that I see in my experience with working with probably over a thousand of them in the last ten years. That's my answer. So I have talked with them.

Mr. **Bartlett**. Okay. I understand. I just want the record to reflect that I may or may not agree with your conclusion——

Mr. **Hyman**. Right.

Mr. **Bartlett**. [continuing] on prohibiting corporal punishment for disabled children. I have a profound disagreement with categorizing everyone who disagrees with you as religious or based in God——

Mr. **Hyman**. No, I didn't say that.

Mr. **Bartlett**. Well——

Mr. **Hyman**. What I said is one of the——

Mr. **Bartlett**. Correct the record.

Mr. **Hyman**. One of the aspects——

Mr. **Bartlett**. If you want to describe the third group again, go ahead.

Mr. **Hyman**. Well, the third group tends——

Mr. **Bartlett**. There are nice religious people in the world and there are religious people in the world who are not nice, just as non-religious.

Mr. **Hyman**. If you wanted to get into the issue of religion, we've quoted two studies about religious orientation and corporal punishment. One done by Reverend Wiehe from the University of Kentucky and the other done by Mary Ann Pokalo as a Doctoral Dissertation. If you really want to get into the details—I wasn't going to give a lot of statistics, but I can give that information.

There is a cluster of traits associated with people that depend on and very much believe in the use of punitive procedures, including corporal punishment. There is that cluster of traits and there's a lot of research on it and it's documented.

Certainly, as you'll see in my testimony and in the book that I presented, most religious people don't believe in the use of corporal punishment, especially New Testament Christians who don't depend on that one quote in the Bible.

Mr. **Bartlett**. Can you think of any specific administrator or teacher that you've talked with who does use corporal punishment with non-disabled children and is prohibited from using corporal punishment with disabled children, and any anecdotal or statistical conclusions from that as far as its impact on both sets of children?

I'm trying to focus on having two sets of rules.

Mr. **Hyman**. It's hard to——

Mr. **Bartlett**. Is there a chapter in your book I could read?

Mr. **Hyman**. There is information on that. But, as I say, that's a new argument. I've never heard that argument before—not until today, to tell you the truth.

Most people who believe in corporal punishment, believe in it, whether it's handicapped or not handicapped. The study by Rose that was cited by Dr. Dwyer shows that there's an alarming increase in principals who paddled regular kids but now, as opposed to—I think it was seven years before in a previous study—now are more inclined to paddle special education kids. That's what the study looked at.

There was an alarming increase in the number of people who said they would paddle regular kids and they wouldn't paddle special education kids. Now they say they would paddle regular kids and special education kids.

Mr. **Bartlett**. That study was?

Mr. **Hyman**. By Rose. It's quoted on page 10 of my testimony.

Mr. **Bartlett**. I do apologize for not being here for your testimony.

Mr. **Hyman**. I understand why you weren't here.

Mr. **Bartlett**. The President of Czechoslovakia of——

Mr. **Hyman**. I understand.

Mr. **Bartlett**. But after the hearing I will read yours and I do appreciate it.

I do want to say, Dr. Hyman, I didn't make the argument up nor am I necessarily trying to present the argument.

Mr. **Hyman**. Oh, I understand that.

Mr. **Bartlett**. It's a statement that I've heard from some years from administrators and principals and teachers who don't necessarily believe in corporal punishment but do have a sense of what happens with children who have some types of disabilities, I recall—who through a hearing impairment or speech impediment are learning disabled but then who also misbehave.

I have heard comments from the classrooms of the difficulty under the current Public Law 94-142 regs of dealing with that misbehavior—of cutting class and other kinds of clear misbehaviors—within the context of an IEP that limits discipline.

I'm surprised that with your research you'd never heard it. There are principals and teachers who are living with it who would probably be happy to share it with you.

Dr. Dwyer, do you have any statistics or evidence on that dual discipline?

Dr. **Dwyer**. To speak to the dual issue, the State of California abolished corporal punishment for handicapped children long before it abolished it for all children and it existed for almost ten years as a dual system. I had a conversation with the legislator who got that passed in the state and I never heard anything that said that this was an impossible thing for people to do.

The other thing is that——

Mr. **Bartlett**. What period of time was that?

Dr. **Dwyer**. This was actually the earlier part of Public Law 94-142 and before Public Law 94-142.

Mr. **Bartlett**. So, it was during the 1970s roughly?

Dr. **Dwyer**. Yeah. The other interesting point, though, is that right now each parent, as they go through an IEP, can request that their child not receive corporal punishment.

I think, if you could imagine for a minute the complexity of implementing—let's say you have three handicapped students in a regular classroom, mainstreamed students, and two of them have on their IEP that their parents say they're not permitted to receive corporal punishment and the third one doesn't have that on his IEP because maybe his parent doesn't understand it or maybe his parents are child abusers and think corporal punishment is a good thing. Which, by the way, there are situations like that.

Mr. BARTLETT. I assume there are parents who use corporal punishment who aren't child abusers also.

Dr. DWYER. Yes, but there are probably some who would support using corporal punishment on a child who is handicapped because they feel that that's the only thing that works, and maybe overusing it to a severe degree.

I think that, if you think about that then, what happens there is you have two children who cannot receive corporal punishment, a third one who is handicapped who can, it gets down to a real difficult management process to figure out who is who, and that child, that one child out of the three who certainly knows who his compatriots are in that classroom, is going to feel terrible about what's happening to him as an individual.

I think if we just think about the management concepts around here—we were talking before about NICHCY and about the parent information centers and the protection and advocacy kinds of things that go on under the law. These centers are getting many more calls on corporal punishment. We are going to have more appeals kinds of cases on these issues. We are going to have many, many more of these kinds of arguments and battles, school by school, case by case. Costly, burdensome and unnecessary—if we abolish it for all handicapped children.

Mr. BARTLETT. Mrs. Allison, you and Steven, have you gone, through an IEP? Do you have an IEP?

Mrs. ALLISON. Yes, we have had an IEP each year.

Mr. BARTLETT. Is the issue of corporal punishment raised in the IEP?

Mrs. ALLISON. It had been. Yes. Now, as far as the discipline plan, the whole classroom, each teacher, has a discipline plan. This year I wrote a letter stating that I did not want Steven corporally punished.

Mr. BARTLETT. Was that accepted as part of Steven's IEP?

Mrs. ALLISON. I don't actually know if they actually put it in his folder. I have not reviewed his folder since the letter was sent.

Mr. BARTLETT. I take it based on Steven's experience you're not much of a believer in an IEP.

Mrs. ALLISON. Yes, I am. He's had one each year. Discipline was no on the IEP. There have been a few discipline plans, individual discipline plans.

Mr. HYMAN. Could I just comment on that? Many times where I have evaluated a special education child who had been hit—this is one of the cases right here with this leather paddle in eastern Oklahoma—the parents wanted to include not using corporal punishment as part of the IEP and there's been pressure on them, all types of subtle and overt pressure, that this is necessary, it's part of our state laws, you can't prevent that.

Also, I've found many psychologists had the same problem because almost every acting-out violent kid I've ever seen—and I've had long years of clinical practice and I've looked at research—that kid has been abused at home. Almost every violent kid I've seen—and I'm sure you're familiar with that. So that the condition that was created, that got the kid into the school—that is, the abusive disciplinary procedures or overtly severe disciplinary procedures—can't be helped by what caused it.

I think that's what Dr. Dwyer was referring to. Surely, not every parent that spanks—I got spanked when I was a kid—surely every parent that spanks their kid is not an abuser and every teacher that paddles the kid is not necessary an abuser. But the point is—and you missed the slides that I had here—they graphically display the fact that when the child is abused by the teacher there's no legal protection.

Unless the state has a law against it, there really is no legal protection. There are no legal bounds of reasonableness. The cases that I showed up there, every one of them was considered legal and reasonable. Yet, if a parent had done that, or anybody else—so, the issue is not that the IEP's theoretically shouldn't work, because they should, but there's pressure all the way around.

I think the issue of making them different, as I thought about it as Dr. Dwyer was talking, probably emerges from the whole concept of mainstream and the REI movement. That as more of these kids, especially emotionally disturbed kids, are being put in regular schools, they're out in the halls and doing things that principals or other teachers would normally paddle a kid for.

I think that's probably where that particular argument is emerging from. I honestly say—I mean, I would have put it in my book if I'd heard that argument before, but I haven't. I have a list of about 11 arguments, or 12, that support corporal punishment and I've answered them, and that's not one that I've included.

Mr. **Bartlett**. I have two other brief questions. Do either of you have specific data on how many or what percentage of school districts use corporal punishment today?

Mr. **Hyman**. Yes. You'll find that in the newer book which is—there's only one copy, it's in page proof. That's based on the Office of Civil Rights survey data.

Now, there's a big problem with that data. I won't go into all the reasons, but one of the——

Mr. **Bartlett**. For the record, what's the——

Mr. **Hyman**. Oh, I'm sorry. The Office of Civil Rights survey. If you'll open that to the back, we've got the percentage for each state. I can't quote the exact—I think for the country it's probably about two percent of kids that are paddled. I can't remember the exact percentage because we didn't look at it that way.

The problem with that is that the data doesn't sample all kids.

Mr. **Bartlett**. Right.

Mr. **Hyman**. So when you get the data, you don't know——

Mr. **Bartlett**. Does it have a percentage of school districts also? I'll look it up.

Mr. **Hyman**. We can get that for you from our center. That's not in that particular book but we can get that for you.

Mr. **Bartlett**. It would be useful. Dr. Dwyer, do you have an opinion on that?

Dr. **Dwyer**. The only way to really determine how often corporal punishment is used on disabled students is by Meter analysis kind of method. By taking the Rose study and putting it together with the Office of Civil Rights study, we can estimate that in 1986 it was used 132,000 times.

There's 31 states that still permit corporal punishment in the United States—31 states still permit it in the United States. Nineteen states have abolished it. For example, now in Florida it's permitted for a school district to abolish corporal punishment, whereas before 1986 it was not permitted.

Mr. **Bartlett**. One last question. As professionals, are there any circumstances in your professional opinion in which corporal punishment—the non-abusive kind of corporal punishment—is a suitable discipline for disabled or non-disabled children?

Mr. **Hyman**. As I said previously, generically there is no argument in favor of corporal punishment. There just is no data.

Just to give you one little example. Most people say, well, toddlers should be spanked if they go out in the street to prevent them from getting killed, or should be spanked to keep them from putting their hand in the plug. Okay? In a research done in North Carolina, they took two groups of toddlers, one whose parents use corporal punishment and the other who don't.

They were put in a room and the parents were asked to keep the kids from touching all the toys in the room. The kids whose parents did not routinely use corporal punishment on them were much less likely to touch the toys than the ones whose parents used corporal punishment. That's just one little example of the kind of data we have.

Mr. **Bartlett**. So in your opinion no.

Mr. **Hyman**. No.

Mr. **Bartlett**. Dr. Dwyer?

Dr. **Dwyer**. In my opinion no. I think, by the way, that in terms of actual plans, there are individual discipline plans. In the State of Texas on the four year old there is an individual discipline plan.

There's also a description of when corporal punishment should be used and when not to be used in the IEP handbook that I guess is given to the parents, which says that basically it should be used—the rules that require it to be used if the child does something that the teacher sees as disruptive. So that's a very general kind of issue.

The student will be told for the reason that corporal punishment is being administered. I'm confused about how you would do that with a four year old Down's Syndrome child, that you would explain to the child that you're doing this for this child's good, or whatever it may be.

Mr. **Bartlett**. Thank you, Mr. Chairman. It's been a very informative panel and I will be looking at the data. I appreciate it.

Mr. **Owens**. I want to thank all the members of the panel. Thank you particularly, Steven, for coming.

I want to make sure we pick up the copies. Those are duplicates? Would Ms. Summers please come forward. Dr. Hyman, would you speak to Ms. Summers here. She wants to talk to you about getting some photographs of the paddles.

[The material to be supplied follows:]

Office of Civil Rights Elementary and Secondary School Survey: Making Sense of the Data

William Russell and Irwin Hyman

**National Center for the Study of Corporal Punishment
and Alternatives in the Schools
Temple University**

For the past 20 years the only data available regarding the incidence and prevalence of corporal punishment in schools in the United States has been the information gathered by the Office of Civil Rights in the biennial Elementary and Secondary School Surveys. The survey data and the projections based on the data have been used by a variety of groups and individuals to discuss how frequently corporal punishment is used in schools. NCSPAS has, for years, stated that the rates cited by OCR are far below actual figures. This paper evaluates the accuracy of the surveying procedures and results used by OCR.

The Elementary and Secondary School(E&S) Civil Rights Surveys are conducted to obtain data on the characteristics of students enrolled in public schools throughout the nation. Specifically, the surveys collect data on the racial makeup of student populations, assignment to gifted and special education classifications, and disciplinary actions in the public schools throughout the country. The information is required by the Office for Civil Rights (OCR) to fulfill its responsibilities under Title VI of the Civil Rights act of 1964, Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973. The primary purpose of the survey is to collect data that can assist OCR in identifying school systems with potential problems. The survey, therefore, collects data which may be used, in conjunction with input from OCR regional staff, to target districts for compliance with civil rights legislation.

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The survey instrument is comprised of two forms: an ED 101 form completed by school districts and an ED 102 form completed by individual schools (see appendix A). Each district selected to participate in the survey completes an ED101 form and "generally" every school within selected districts completes an ED102 Form. The survey forms, according to OCR, "reflect the important issues and direct responsibilities of OCR"(Office of Civil Rights,1988).

From 1968 through 1974 the surveys were conducted annually. During this period, OCR utilized various sampling methodologies aimed at including the majority of large districts. In 1976 every school in the country was surveyed and the amount of data requested from each school was greatly increased. The 1976 universal survey included 15,715 districts, 88,184 schools, and 43,713,009 students. The outcry of being overwhelmed with paperwork from school officials and the controversy over the costs of conducting the survey were so intense that a number of changes in the survey process were immediatiely implemented. To assuage the overburdened school district administrators, the survey was changed from an annual one to biennial. In order to minimize survey costs and to further reduce respondent burden, a sampling methodology would be employed to select districts for inclusion in future surveys rather than conducting universal surveys every two years.

For the first survey to be conducted under the new efficiency umbrella a sampling process was devised to select the schools that would be surveyed. The sampling methodology was designed to be a "rolling sample". That is, include one-third of the districts in each survey thereby, insuring that every school district and school would be covered at least once every six years. However, in an additional cost-cutting strategy, enrollment thresholds were used for determining whether a school district would even be eligible for inclusion in the sampling process. Small districts were excluded totally from this and subsequent surveys. Thereby saying that the small rural districts that abound in the south and midwest would not even be eligible for inclusion in the sampling process. In the 1978 and 1980 surveys the threshold enrollment for inclusion in the survey was 300 students. In 1982 the threshold was increased to 1500 students. In 1984 the threshold concept was modified and a new universe file of all schools was constructed(for a detailed description of the process used to

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construct the universe of school districts see appendix D). The "rolling sample" process was discarded in favor of a "stratified random sampling process". According to Gary Curran, an OCR spokesman: "the rolling sample gives advance notice of who will be surveyed and when, which is not in OCR's best interest as an enforcement agency"(Education Week,1988). These survey methodology modifications were all implemented under the rubric of improving efficiency and reporting procedures thereby enhancing the enforcement capabilities of OCR. According to the Final File Documentation of the 1986 Survey:

> Over the years, the survey underwent considerable changes in scope, coverage, content, and methodology. These changes reflected the expansion of OCR's responsibility as well as shifts in the civil rights issues of national concern. Initially the primary focus of the survey was to identify racially dual systems. Since then, the scope of the survey has broadened to include discrimination on the basis of sex or handicap and address such "second generation" problems as discriminatory discipline practices, tracking and ability grouping, student assignments within schools, classrooms, etc. The survey scope of the 1984 and 1986 E&S surveys is identical and virtually unchanged from that of the 1982 Survey.(OCR,1988)

The questions used on OCR's form ED102 regarding the use of corporal punishment have remained unchanged since the 1976 survey. According to the instructions on the form schools need only report:

> The number of pupils who received corporal punishment during the surveyed school year. Corporal Punishment is the infliction of physical punishment to the body of a student by a school employee for disciplinary reasons. Count pupils once regardless of the number of times they were punished.(OCR,1988)

OCR uses the data obtained in its samples not only for spotting trends or problems among the sampled schools and districts but also uses the sample for making incident rate projections to the state,

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regional and national level. OCR uses a process of assigning weights to each school district based on the probability of that district being chosen for the sample (for a more detailed explanation see appendix B) and then using that assigned weight to develop projected rates of occurence. For example, if we multiply district X by Weight A we can project how many children were the victims of corporal punishment in that state. There are several problems with using this methodology for computing the estimated rates of corporal punishment at the regional, state, and national levels. States that ban the use of corporal punishment do not report the incident rate that corporal punishment is banned but simply that the rate of occurrence was zero. This reporting of incident rates as zero also poses a problem at the local level. For example, in developing the sample for the state of Pennsylvania, OCR included the two largest school districts of Philadelphia and Pittsburgh. The populations of these two districts made up over 50 percent of the sample population for the state. Corporal Punishment is banned in the public schools of these two cities. More succinctly, over 50 percent of the sampled students could not legally recieve corporal punishment. This makes even "weighted" projections of questionable validity.

It is these projected figures distributed by the Office of Civil Rights that the public and advocates for the abolishment of corporal punishment rely and depend on in discussions and research of the prevalence, trends, and/or legal issues involved in the use of corporal punishment in schools. The quotation of these "weighted figures" is widespread. For example:

> Embarrassed and outraged by recent data revealing that more than one million school children were hit by teachers, principals, and athletic coaches last year, the National Committee for Prevention of Child Abuse and the National Coalitions to Abolish Corporal Punishment in Schools convened professionals and lay persons from around the country for a comprehensive look at the problem and what can be done about it.(Conference, 1988)

According to the latest available survey from the U. S. Department of Education,

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> Office of Civil Rights, handicapped and minority children are hit at twice the rate of other students for disciplinary reasons....Handicapped children are hit twice as much as children in regular education programs.(Block, 1989)

> As an educator and a mother of three school-aged children, I was shocked when I heard these statistics(NCSPAS estimates that between two and three million incidents of corporal punishment occur annually in schools in the U.S.).(Gootman, 1988)

The foregoing references to the rates of corporal punishment in schools are typical in relation to the data provided by OCR. These and many, many more use the projections from the Office of Civil Rights in conjunction with their efforts. The first quotation refers to the figure that the Office of Civil Rights posits as the projected total number of incidents based on its statistical methodology. Contrast that with the final quotation (Gootman,1988) of 2 to 3 million incidents. These much higher estimates are based on research conducted by the National Center for the Study of Corporal Punishment and Alternatives in the Schools and contrast sharply with OCR estimates. The statistics produced by OCR contain no data whatsoever regarding rates of corporal punishment of handicapped children as opposed to non-handicapped children. Thus, any reference to the incident rate of corporal punishment among handicapped children is purely speculation.

In the 1976 universal survey from which all samples in the subsequent surveys are based, the accuracy of any extrapolations from the data is questionable in light of the following disclaimer added to the OCR data:

> The file from which the reports were generated contains the most accurate data obtainable from the districts. However, districts often submitted incomplete, inaccurate or inconsistent data. Despite a major effort to secure, from the districts, additional information and/or corrections, some errors still remain.(OCR,1978)

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After the above disclaimer, the data file points out some rather specific problems in the encountered in the survey. Many districts, including New York City, Chicago, and Des Moines, did not provide basic enrollment data by sex. All information from Texas is essentially raw data. The submission of data for Texas districts was through the Texas State Education Agency. Problems involving logistics, resources and timing precluded full error resolution through the SEA. For almost every item on the survey forms there were a few districts which could not provide the requested information. According to the documentation accompanying the survey data, the number and size of districts not responding to a particular item is generally small enough so as not to significantly affect state or national totals. After supposedly clarifying and minimizing possible problems in the data collected OCR goes on to note a little further in the official documentation:

> We have attempted to note, in the users' guides, data problems which may potentially have a significant impact on reported state totals. Such problems include: (a)Major metropolitan districts which did not provide data as requested and which are large enough to potentially affect state totals.(b) Frequently reoccurring data problems which may affect the interpretation of data. There are however some large districts, such as New York City, Chicago, and Philadelphia, which submitted data containing so many errors that it is not possible, within the context of this report to delineate them.(c) Many schools did not provide discipline data as requested. Of the discipline questions (suspension and corporal punishment), Item 17g, corporal punishment had the highest non-response rate.(OCR,1988)

The 1978 survey collected data from more than 6,049 school districts, selected as a sample of the over 15,500 districts in the country. Districts with less then 300 students were excluded from participation in the sampling procedure. This meant that approximately 4,000 districts were not included in the survey.

In 1980 the OCR survey surveyed 5,058 districts again maintaining the threshold of 300 students for inclusion in the survey process.

In the 1982 survey the population threshold for inclusion in the sampling process was increased to 1500 students. That is, if the district had less than 1500 students enrolled, they were excluded. The survey sampled only 3,128 districts.

Each set of data released by OCR for 1978, 1980, and 1982 include the following lead-in:

> The file from which the tables were generated contains the most accurate data obtainable from the districts. However, districts often submitted incomplete, inaccurate, or inconsistent data. Despite a major effort to secure from the districts, additional information and/or corrections, some errors remain. In particular, many districts reported totals which did not agree with computed totals by race/ethnicity and/or sex.(OCR,1988)

In the 1984 and 1986 the sampling process of the survey was altered to allow school districts with low enrollments, predominantly in the south and midwest, to be included in the sampling process. The error documentation accompanying the 1986 Final File is far too lengthy to delineate in this paper(for a detailed explanation write to NCSPAS, Temple University, Phila., PA 19122).

The foregoing problems with the sampling process, the data reported, and the development of a valid universe make any type of projection of the E&S data questionable. This is particularly relevant to the corporal punishment figures. The corporal punishment rate projected by OCR and the rate that outraged the National Committee for Prevention of Child Abuse of over a million school children being hit in the last survey is considerably below the actual rate. The estimate postulated by Irwin Hyman and noted above is probably far more accurate. Especially in light of the following:

Schools need only report the first time a child gets hit, there are no records of how many times the child was the victim of corporal punishment after the initial incident. The only incidents that are recorded are those involving formal disciplinary procedures. An "unofficial" slap on the back of the head or an "accidental" push up against the locker are not recorded. These unrecorded, spontaneous uses of physical punishment are often the first punishment for nonviolent and minor misbehavior(Hyman, Clarke, & Erlen, 1987).

There are over 4 million children enrolled in private and parochial schools in the United States(U.S. Bureau of Census, National Catholic Education Association Tables 9,14;1987, Western Interstate Commission for higher education). There are no records of the incident rate of corporal punishment for the students in these schools. But in an atmosphere where the following was overheard "if everyone doesn't get in their seats now I'm gonna knock some heads together"(personal communications, July 10, 1989) it is probably safe to say that corporal punishment occurs on a not infrequent basis.

An analysis of the OCR records conducted by Education Week(1988) indicates that as a result of the sampling procedures of OCR over 7,000 districts, mostly small ones, will not have been surveyed since 1976. The majority of these districts are in rural regions that have the highest rate of corporal punishment in the country. According to National Rural and Small Schools Consortium rural school districts enroll approximately 33% of the nation's school children. Fundamentalists, Evangelicals, and Baptists populations are more prevalent in these areas and they tend to respond to disciplinary situations more punitively than those who identify themselves with other major religions(Pokalo, 1986).

The data from the surveys is problematic at best. In order to accurately estimate the prevalence of corporal punishment in schools today OCR must take two major steps. First, the survey form ED102 must be altered to reflect the total number of incidents of corporal punishment not just how many kids were hit. Second, and most important, a universal survey must be completed in order to develop a valid universe from which to conduct further surveys. According to a source at the Office of Civil Rights the earliest this could be accomplished would be for the 1992 survey and then only if there is sufficient funding to conduct a universal survey.

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[illegible]

This report is required by the U.S. Department of Education pursuant to Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and other sections [illegible] of the Rehabilitation Act of 1973. Section 100.6(b) of 34 CFR [illegible] for the purposes of Title VI of the Civil Rights Act of 1964, provides:

Compliance Reports. Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete and accurate compliance reports at such times, and in such form, and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this regulation.

APPENDIX A

Form Approved
OMB No. 1870-050(
Expiration 9/85

Fall 1984
Elementary and Secondary School Civil Rights Survey
SCHOOL SYSTEM SUMMARY REPORT: ED101
Office for Civil Rights
U.S. Department of Education
Washington, DC 20202-2516
Due December 15, 1984

GENERAL INSTRUCTIONS

- Please use a typewriter or print legibly in ink.
- Pupil membership should be reported as of October 1, 1984, or the nearest convenient date prior to December 15, 1984.
- If the answer for a given item is "none," enter "0" in the appropriate space.
- If a particular item is not applicable in your case, enter "N/A".
- Copies of this ED101 form and all ED102 forms for the district must be retained in the district office for two years from the due date (until December 15, 1986).

DEFINITION

SCHOOL: For the purpose of this report, a school is a division of the school system consisting of elementary and/or secondary (or equivalent) students, comprising one or more grade groups or other identifiable groups, organized as one unit with one or more teachers to give instruction of a defined type, and housed in a school plant of one or more buildings. More than one school may be housed in one school plant, as is the case when the elementary and secondary schools are housed in the same plant [illegible] administered by a principal or equivalent.

INSTRUCTIONS FOR COMPLETING FORM ED101

Questions 1, 2, 3: Self-explanatory.

Question 4: COURT ORDER STATUS. If you are uncertain as to whether or not your school system is currently subject to a Federal or State court order requiring your system to develop or implement a plan for desegregation, you should contact the Clerk of the appropriate Federal or State court to obtain this information.

Question 5: SPECIAL EDUCATION. For the purposes of this survey, a special education pupil is (a) a student whose residence is within the geographic area served by the school system, (b) who is within the age group served by the school system, and (c) who has one or more of the following handicapping conditions: [illegible] hearing impairment, visual impairment, speech impairment, [illegible] other health impairment such as [illegible] heart condition, tuberculosis, rheumatic fever, [illegible]. Exclude children who are solely classified as gifted/talented. Report on the basis of what is known to the school system at the time of reporting. Do not include children who are residents of other school districts, even if they are being served by your district.

a. How many children are awaiting initial evaluation? Number of pupils who have been referred for evaluation to determine if they require special education for the first time and who have not yet been evaluated. This number is exclusive of those reported in b. below. It does not include children being re-evaluated.

b. How many children have been identified as needing special education services? Number of children who have been evaluated as needing any type of special education program, either full-time or part-time.

c. How many children are placed in special education programs *in this district*? Include only those children who were identified in b. above. Combine the children being served on full-time and part-time bases. Include all children in the district who are presently enrolled in special education, whether they were evaluated in the past or for the first time this school year.

d. How many children are placed in special education programs in a nondistrict facility? Number of children evaluated as requiring special education and receiving special education services in a facility not operated by this school system. Combine children being served on a full-time and part-time bases.

CERTIFICATION: After you have reviewed the data submitted on the ED101 form and on the ED102 forms to be attached for each school, please sign the certification and enter the telephone number to be used in the event that questions arise regarding this report.

Form ED101

[illegible]

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1984 Elementary and Secondary School Civil Rights Survey
HOOL SYSTEM SUMMARY REPORT: ED101

ue December 15, 1984

Form Approved
OMB No. 1870-0500
Expiration 9/85

SPACE FOR LABEL

1. NAME OF SCHOOL SYSTEM ______________________________

2. ADDRESS ______________________________
Street or P.O. Box
____
County
____
City/Post Office State Zip

3. SCHOOLS: Total number of schools in this system. For each school, attach a completed Form ED102 ☐

4. COURT ORDER STATUS: Is this school system currently subject to a Federal or State court order requiring it to develop or implement a plan for pupil desegregation

5. SPECIAL EDUCATION: Please refer to the instruction sheet

a. How many children are awaiting initial evaluation? ☐

b. How many children have been identified as requiring special education? ☐

c. How many children are receiving special education in this district? ☐

d. How many children are receiving special education in a nondistrict facility? ☐

CERTIFICATION: I certify that the information given on this form and on the attached ED 102 forms is true and correct to my knowledge and belief. (A willfully false statement is punishable by law [U.S. Code, Title 18, Section 1001].)

____
Signature of Superintendent or Authorized Agent Title (Area Code) Telephone No. Date Signed

Form ED101

ORIGINAL—Return to Office for Civil Rights (LEGAL)

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C REQUIREMENT

[illegible] is required by the U.S. Department of Education pursuant to Title VI of the Civil [illegible] Act of 1964, Title IX of the Education Amendments of 1972, and under Section 504 [illegible] Rehabilitation Act of 1973. Section 100.6(b) of ED Regulations (34 CFR 100), issued [illegible] carry out the purposes of Title VI of the Civil Rights Act of 1964, provides:

Compliance Reports. Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete and accurate compliance reports at such times, and in such form, and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this regulation.

Form Approved:
OMB No. 1870-0500
Expiration 9/85

Fall 1984
Elementary and Secondary School Civil Rights Survey
INDIVIDUAL SCHOOL REPORT: ED102
Office for Civil Rights
U.S. Department of Education
Washington, DC 20202-2516
Due December 15, 1984

GENERAL INSTRUCTIONS

- This form is to be completed for each individual school in the district.
- Please use a typewriter or print legibly in ink.
- Pupil membership should be reported as of October 1, 1984, or the nearest convenient date prior to December 15, 1984.
- If the answer for a given item is "none" or if all elements of a matrix are "0", enter "0" in the appropriate space or in the total column only (in the case of a matrix). If an item is not applicable, enter "N/A" (not applicable) in the appropriate space or in the total column only (in the case of a matrix).
- A copy of this form must be retained at the district office for two years from due date (until December 15, 1986).

DEFINITIONS

SCHOOL: For the purpose of this report, a school is a division of the school system consisting of elementary and/or secondary (or equivalent) students, comprising one or more grade groups or other identifiable groups, organized as one unit with one or more teachers to give instruction of a defined type, and housed in a school plant of one or more buildings. More than one school may be housed in one school plant, as is the case when the elementary and secondary schools are housed in the same plant. Count only units administered by a principal or equivalent.

RACIAL/ETHNIC CATEGORIES: Racial/ethnic designations, as used by the U.S. Department of Education, Office for Civil Rights, do NOT denote scientific definitions of anthropological origins. *For the purposes of this report, a pupil may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging to. However, no person should be counted in more than one racial/ethnic category.* The manner of collecting the racial/ethnic information is left to the discretion of the institution provided that the system which is established results in reasonably accurate data.

— American Indian or Alaskan Native: A person having origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.

— Asian or Pacific Islander: A person having origins in any of the original peoples of the Far East, Southeast Asia, the Pacific Islands, or the Indian subcontinent. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.

— Hispanic: A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin—regardless of race.

— Black (Not of Hispanic Origin): A person having origins in any of the Black racial groups of Africa.

— White (Not of Hispanic Origin): A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

PROGRAMS FOR THE GIFTED OR TALENTED: Those programs designed for pupils who by virtue of outstanding abilities are capable of high performance and who require differentiated educational programs and/or services beyond those normally provided by the regular school program. Such pupils include those with demonstrated achievement and/or potential ability in any of the following areas, singly or in combination: 1) general intellectual ability, 2) specific academic aptitude, 3) creative or productive thinking, 4) leadership ability, 5) visual or performing arts, 6) psychomotor abilities.

HANDICAPPED PUPILS (STUDENTS, CHILDREN) and SPECIAL EDUCATION PUPILS: For purposes of this report the terms are synonymous. A special education pupil is one with one or more of the handicapping conditions defined below and who has been evaluated as requiring special educational services because of this (these) condition(s).

HANDICAPPING CONDITIONS: The following definitions are to be used in preparing this report:

— Educable mentally retarded (or handicapped)—a condition of mental retardation which includes pupils who are educable in the academic, social, and occupational areas even though moderate supervision may be necessary.

Trainable mentally retarded (or handicapped)—a condition of mental retardation which includes pupils who are capable of only very limited meaningful achievement in the traditional basic academic skills but who are capable of profiting from programs of training in self-care and simple job or vocational skills.

Hard of hearing—a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance but which is not included under the definition of "deaf" in this section.

Deaf—a hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance.

Speech impaired—a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, which adversely affects a child's educational performance.

Visually handicapped—a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children.

Seriously emotionally disturbed—a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance: an inability to learn which cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems. The term includes children who are schizophrenic.

Orthopedically impaired—a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

rm ED102

INSTRUCTIONS FOR [illegible]

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[illegible] limited strength, vitality, or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational

arning disability — a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, ay manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as ual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems h are primarily the result of visual, hearing, or motor handicaps, of mental retardation, or of environmental, cultural or economic disadvantage.

af-blind — concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational roblems that they cannot be accommodated in special education programs solely for deaf or blind children.

Multihandicapped — concomitant impairments (such as mentally retarded-blind, mentally retarded-orthopedically impaired, etc.), the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blind children. For the purposes of this report, this category should include those pupils who are severely or profoundly mentally retarded.

SPECIAL EDUCATION PROGRAMS. Special education programs are those designed to meet the needs of children with one or more of the handicapping conditions above.

INSTRUCTIONS FOR QUESTIONS ON ED102

Questions 1 through 3. Self-explanatory.

Question 4. GRADES OFFERED. In the boxes provided, check all grades offered in this school. Please note: The first box is to be checked by schools that offer only special education classes.

Question 5. PUPIL STATISTICS. Complete the chart for racial and ethnic categories and, where indicated, for males and females. Refer to the definitions above of racial and ethnic categories. Leave no blanks; where the answer is none, enter "0".

a. *Pupils in Membership.* The total number of pupils in membership on or about October 1, 1984, for each racial and ethnic category and for males and females. In each box report total membership — not percentages, average daily attendance, average daily membership, or year end enrollment. Count each pupil as one including any who attend less than a full day, such as kindergarteners.

b. *Pupils in Need of Language Assistance Programs.* Enter in b(1) the number of national origin minority pupils who are so limited in their English proficiency that they cannot effectively or equally participate in the school's regular instruction program. Enter in b(2) the number of pupils reported in b(1) who are enrolled in a program of language assistance (i.e., English as a Second Language, high intensity Language Training, or a bilingual education program). Do not count pupils enrolled in a class to learn a language other than English.

c. *Pupils in Programs for the Gifted or Talented.* The number of pupils enrolled in programs for the gifted or talented. Count pupils once regardless of the number of programs in which they are enrolled.

d. *Pupils Who Received Corporal Punishment.* The number of pupils who received corporal punishment during the 1983-84 school year. Corporal punishment is the infliction of physical punishment to the body of a student by a school employee for disciplinary reasons. Count pupils once regardless of the number of times they were punished.

e. *Pupils Suspended.* The number of pupils who were suspended from this school for at least one day during the 1983-84 school year. Suspension is the temporary exclusion of a student from school for disciplinary reasons for one full school day or longer. Count pupils once regardless of the number of times they were suspended.

Question 6. PUPIL ASSIGNMENT. This question is to be completed by all schools that offer any two elementary grades between and including one through six. Select the lowest of those grades that your school offers and the highest. Do not include kindergarten. For example, if your school offers K-12, select grades one and six for the chart. If your school offers 1-5, select grades one and five.

Question 7. SPECIAL EDUCATION PROGRAMS. Please read the definitions of the handicapping conditions on the first page of this instruction sheet. Do not complete darkened areas.

- Count pupils participating in special education programs operated at this school only. Include those pupils who receive special education services in their regular classrooms as well as those who receive such services in special classrooms.
- If any child participates in two or more programs, include him or her in the one program in which he or she spends the most time. Example: John Doe spends 10 hours per week in a program for the educable mentally retarded and 6 hours per week in a program for the orthopedically impaired; he would be reported in line (a) for the educable mentally retarded, since he spends most of his time in that program.
- *In column 1,* enter in each row the total number of pupils participating in each program, for rows a through l. In row m, enter the total of rows a through l.
- *In column 2 through 6,* enter the number of pupils in each racial/ethnic category in rows a, b, e, g, and j (racial/ethnic data is not needed for the other rows). For each row in which data must be entered, the entries in columns 2 through 6 must sum to the entry in column 1.
- *In columns 7 and 8,* enter the number of male and female pupils in the special education programs defined in rows a, b, e, g, and j. For each of these programs the sum of columns 7 and 8 must equal the entry in column 1.
- *In column 9,* enter for the programs defined in rows a, b, e, g, and j, the number of pupils who have also been identified in item 5b(1) as limited in English proficiency. Any such pupils will already have been counted in columns 2 through 8.
- *In columns 10 and 11,* enter the number of students who spend only a portion of the day in special education in column 10 and those who spend a full school day in special education in column 11. The sum of columns 10 and 11, for each row, must equal the total in column 1.

Question 8. SELECTED COURSE ENROLLMENT. Complete the chart for pupils enrolled in all-male classes, all-female classes, and for males and females in mixed classes in (a) home economics, (b) industrial arts, and (c) physical education.

- Enter the number enrolled in grades 7 through 9. For example, if this school serves grades 6-7-8, include only those pupils in grades 7 and 8. In (a), include occupational home economics.

uestion 9. HIGH SCHOOL GRADUATES. Complete the chart for those who received a regular high school diploma during the 1983-84 school year. A high school diploma, for purposes of this question, is a diploma granted upon the successful completion of a prescribed secondary program of studies. This includes, where required as a prerequisite, the successful completion of a minimum competency test.

This question is not to be answered by elementary schools, middle schools, or junior high schools.

Do not include those who received other than a high school diploma, such as those who received a special diploma, a certificate of attendance, or a certificate of completion.

lease check the completeness and accuracy of each item reported. Errors or omissions may require a refiling of this form.

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Fall 1984 Elementary and Secondary School Civil Rights Survey
INDIVIDUAL SCHOOL REPORT: Form ED102
Due December 15, 1984

Form Approved
OMB No. 1870-0500
Expiration 9/85

SECTION I—TO BE COMPLETED BY ALL SCHOOLS

1. SCHOOL SYSTEM NAME ____________________

2. SCHOOL NAME ____________________

3. SCHOOL ADDRESS ____________________
Street or P.O. Box

City, Post Office ______ County ______ State ______ Zip ______

SPACE FOR LABEL

4. GRADES OFFERED
- If this school is totally ungraded, check here ☐
- If this school offers only special education, check here ☐
- In the boxes below, check all other the grades offered

☐ Pre-K ☐ K ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐ 11 ☐ 12

5. PUPIL STATISTICS: Before you begin, please review the definitions and instructions on the instruction sheet of this form.

Columns 1 through 5 must equal column 6

Columns 7 and 8 must equal column 6

	1	2	3	4	5	6	7	8
	AMERICAN INDIAN OR ALASKAN NATIVE	ASIAN OR PACIFIC ISLANDER	HISPANIC	Not of Hispanic Origin		TOTAL	Total MALE	Total FEMALE
				BLACK	WHITE			
a. Pupils in Membership								
b(1) Pupils in Need of Language Assistance Programs							▨	▨
b(2) Pupils Enrolled in Language Assistance Programs							▨	▨
c. Pupils in Programs for the Gifted & Talented								
d. Pupils Who Received Corporal Punishment								
e. Pupils Suspended								

PUPIL ASSIGNMENT. Consult the instruction sheet for instructions. This table is to be completed for all elementary entry- and exit-level classrooms in schools that offer any of the grades one through six, inclusive. Kindergarten is NOT to be included. Complete the table for classrooms in the lowest grade and in the highest grade of those to be counted (grades three and six if this school offers grades three through eight).

If two grades are combined in one classroom, count only those students in the entry- or exit-level class. Place the number of students in each racial/ethnic category in the proper column. For additional classes, duplicate chart or separate paper and continue. Be sure to make three carbon (or other) copies of extra pages and attach to the returned forms as appropriate.

1	2	3	4	5	6	7
Teacher's Initials or ID Number	Grade	AMERICAN INDIAN OR ALASKAN NATIVE	ASIAN OR PACIFIC ISLANDER	HISPANIC	Not of Hispanic Origin	
					BLACK	WHITE

Form ED102

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CHOOL REPORT: FORM ED102 [illegible]

SPACE FOR LABEL

STEM ______________________

AME ______________________

SECTION II–TO BE COMPLETED BY ALL SCHOOLS OFFERING ANY SPECIAL EDUCATION PROGRAM

SPECIAL EDUCATION PROGRAMS If this school offers any special education programs, the table below must be completed. If no special education programs are offered, check this box ☐ and proceed to Section III. The instruction sheet of this form (General Instructions) defines the handicapping conditions and provides instructions for this question.

	1	2	3	4	5	6	7	8	9	10	11
	PUPILS PARTICIPATING IN SPECIAL EDUCATION									PART TIME	FULL TIME
		BY RACIAL/ETHNIC CATEGORY					BY SEX				
	Total	American Indian or Alaskan Native	Asian or Pacific Islander	Hispanic	Not of Hispanic Origin		Total Male	Total Female	Limited or Non English Speaking		
Special Education Programs					Black	White					
(a) Educable Mentally Retarded											
(b) Trainable Mentally Retarded											
(c) Hard of Hearing											
(d) Deaf											
(e) Speech Impaired											
(f) Visually Handicapped											
(g) Seriously Emotionally Disturbed									●		
(h) Orthopedically Impaired											
(i) Other Health Impaired											
(j) Specific Learning Disabled											
(k) Deaf-Blind											
(l) Multihandicapped											
(m) [illegible]											

SECTION III—TO BE COMPLETED BY SCHOOLS OFFERING ANY GRADE 7-12

- [illegible]
- [illegible]

6. **SELECTED COURSE ENROLLMENT** [illegible]

	Number of Pupils Enrolled				Total Enrollment
	All Male Classes	All Female Classes	Mixed Classes		
			Male	Female	
a. Home Economics Courses — Grades 7 through 9					
b. Industrial Arts Courses — Grades 7 through 9					
c. Physical Education Courses — Grades 7 through 9					

8. **HIGH SCHOOL GRADUATES** Refer to the instructions on the instruction sheet of this form.

Columns 1 through 5 must equal column 6

Columns 7 and 8 must equal column 6

	1	2	3	4	5	6	7	8
	AMERICAN INDIAN OR ALASKAN NATIVE	ASIAN OR PACIFIC ISLANDER	HISPANIC	Not of Hispanic Origin		TOTAL	Total MALE	Total FEMALE
				BLACK	WHITE			
Persons Receiving High School Diplomas								

Please check the accuracy and completeness of each item reported. Errors or omissions may require a refiling of this form.

CERTIFICATION I certify that the information given above is true and correct to the best of my knowledge and belief. (A willfully false statement is punishable by law [U.S. Code, Title 18, Section 1001].)

Signature of Principal or Authorized Agent ______ Title ______ (Area Code) Telephone Number ______ Date Signed ______

(225)

108

Appendix B

Assignment of weights to Sample Data

Selection factors used to draw the sample:

1. 75% coverage and 5% standard deviation of the following nationwide minority student components - Asian/Pacific, Black, and Hispanic.
2. 50% coverage and 5% standard deviation of the total student population.
3. 10% standard deviation of the student population for each individual state.

A computer program known as OPTSAM was used to develop the set of probabilities (one for each district) and to draw the sampled districts in such a way as to satisfy the above selection factors while attempting to minimize the costs of conducting the survey.

As a result of running OPTSAM 3,510 districts representing 33,932 schools were selected for inclusion in the survey. The inverse of the probability associated with each district's selection in the sampling process was used as the districts weight in the survey, a value used for projection purposes. Since the set of districts which responded to the survey differed from the set of districts that were initially selected by the sampling process, it became necessary at the end of the survey to "reweight" the sampled districts. The original weights were adjusted upwards by a small value to compensate for the non-responding or otherwise missing districts.

Appendix C

STATE	YEAR	NO. OF SCHOOLS IN SAMPLE	NO. OF STUDENTS IN SAMPLE	NO. OF SAMPLED KIDS WHO WERE HIT
TX	1976	4907	2827101	262663
FL	1976	1034	1536830	170172
GA	1976	1973	1068813	121256
OH	1976	3861	2189492	110072
TN	1976	1009	870439	77411
IL	1976	4434	2211075	76300
OK	1976	1912	590461	65651
AL	1976	1362	757619	53765
MS	1976	871	497993	50758
NC	1976	1064	1175272	50150
IN	1976	2284	1150020	50019
AR	1976	1086	455101	46719
KY	1976	1323	690121	46531
MO	1976	2271	904963	38912
PA	1976	4363	2151746	35712
SC	1976	1170	640291	33322
CA	1976	8597	4313926	30920
MI	1976	4104	2010743	25267
LA	1976	1517	834056	24340
VA	1976	1873	1097329	19921
WV	1976	1128	406179	18149
NM	1976	723	278472	14512
AZ	1976	977	491944	13818
WA	1976	1425	776873	10067
KS	1976	1473	454104	8929
OR	1976	1515	470600	7465
CO	1976	965	561757	5377
MD	1976	1400	862103	4730
NV	1976	285	140817	4702
ID	1976	662	197769	4192
IA	1976	1932	598955	3753
DE	1976	224	121762	3186
NY	1976	4010	3270428	2320
WY	1976	287	89703	2031
MT	1976	677	178392	1681
AK	1976	299	88295	1233
WI	1976	2379	940072	808
NE	1976	1957	300407	791
CT	1976	973	613123	699
MN	1976	1997	857800	544
UT	1976	482	312380	402
SD	1976	501	145644	129
ME	1976	822	238263	120
VT	1976	372	102679	107
ND	1976	448	126774	77
NH	1976	385	171934	14
DC	1976	196	125058	5
HA	1976	225	173692	2
RI	1976	388	167640	0
NJ	1976	2560	1402010	0
MA	1976	2030	1061995	0

Appendix C

STATE	YEAR	NO. OF SCHOOLS IN SAMPLE	NO. OF STUDENTS IN SAMPLE	NO. OF SAMPLED KIDS WHO WERE HIT
TX	1984	2144	1468395	97398
FL	1984	1456	1105122	97214
TN	1984	815	461692	42197
AL	1984	704	410202	37383
AL	1984	704	410202	37383
GA	1984	832	511762	30062
NC	1984	1040	615919	28790
MS	1984	365	223349	27071
OH	1984	887	513639	26238
LA	1984	923	523964	24064
SC	1984	690	400138	23353
AR	1984	429	191392	22486
OK	1984	568	241050	20384
KY	1984	538	293291	19103
IN	1984	742	431908	16040
CA	1984	3188	2286966	6971
AZ	1984	488	337088	6961
NM	1984	363	189090	6544
IL	1984	1018	711819	6443
MO	1984	560	264160	4603
MI	1984	864	510236	4448
DE	1934	134	80190	4234
WA	1984	778	376931	4228
PA	1984	890	537212	3246
VA	1984	922	608798	2779
WV	1984	602	213983	2499
KS	1984	586	217876	1462
NV	1984	217	133630	1457
CO	1984	629	336498	779
ID	1984	244	121084	597
OR	1984	598	251834	556
WY	1984	218	70095	432
CT	1984	532	269860	353
WI	1984	522	258216	346
MT	1984	304	84082	332
AK	1984	231	83883	327
IA	1984	411	157164	281
MD	1984	754	438515	222
NE	1984	546	153367	161
MN	1984	510	295239	53
ND	1984	219	67708	23
NY	1984	1344	1156354	23
SD	1984	229	70522	13
UT	1984	507	328974	8
ME	1984	303	100608	4
RI	1984	224	107494	1
VT	1984	77	45251	0
HA	1984	232	169171	0
NJ	1984	772	481936	0
MA	1984	569	276757	0
NH	1984	180	84470	0
DC	1984	164	82596	0

Appendix C

STATE	YEAR	NO. OF SCHOOLS IN SAMPLE	NO. OF STUDENTS IN SAMPLE	NO. OF SAMPLED KIDS WHO WERE HIT
TX	1986	2567	1945398	121862
FL	1986	1663	1318229	87218
GA	1986	1058	728704	49186
AL	1986	749	445708	42770
TN	1986	736	448275	42769
MS	1986	480	313211	33463
OK	1986	887	392931	26493
LA	1986	978	569399	23476
AR	1986	396	207965	23013
SC	1986	655	412683	21051
OH	1986	1085	655304	19747
NC	1986	1036	634966	18300
IN	1986	836	499159	15975
KY	1986	638	353415	14733
NM	1986	400	214574	6787
AZ	1986	617	286883	5911
MO	1986	802	431065	5589
CA	1986	3614	2825200	5103
MI	1986	115	703700	4322
VA	1986	974	959760	3059
WV	1986	667	229751	2597
PA	1986	942	588584	2424
WA	1986	911	473414	2021
DE	1986	138	85009	1204
KS	1986	532	222066	1167
IL	1986	1032	783709	957
NV	1986	219	146490	917
CO	1986	730	413703	683
OR	1986	556	264046	631
MD	1986	915	550694	552
ID	1986	285	141416	534
IA	1986	488	210146	269
AK	1986	275	88078	233
WY	1986	218	71422	189
NE	1986	333	143389	173
MT	1986	225	91588	158
DC	1986	178	84630	152
WI	1986	579	310461	101
CT	1986	523	262453	89
SD	1986	229	78854	67
UT	1986	416	293797	55
NY	1986	2031	1660453	23
MN	1986	621	400640	21
NJ	1986	925	607768	11
ND	1986	186	69901	5
RI	1986	230	108306	1
MA	1986	710	382122	0
ME	1986	280	102608	0
HA	1986	233	178947	0
VT	1986	93	41063	0
NH	1986	183	92326	0

Appendix D

The process for constructing the new universe of school districts in the United States for the 1984 survey consisted of using five sources of data:

1. 1982 OCR E&S Survey - 3,128 districts with all sampled districts having 1500 or more pupils.
2. 1980 OCR E&S Survey - 5,058 districts with all sampled districts having 300 or more pupils.
3. 1978 OCR E&S Survey - 6,049 districts with all sampled districts having 300 or more pupils.
4. 1976 OCR E&S Survey - the universe of 15,715 districts.
5. 1981 National Center for Educational Statistics District Universe File - the most current file available form NCES.

To the above universe the following selection factors were applied to draw the survey in 1984:

1. 75% coverage and 5% percent standard deviation(PSD) of the following nationwide minority student components - Asian/Pacific, Black, and Hispanic.
2. 50% coverage and 5% PSD of the total student population.
3. 10% PSD of the student population for each individual state.

The School Districts that Most
frequently used Corporal Punishment

State	City	School District	Number of Reported incidents of Corporal Punishment
TN	MEMPHIS	MEMPHIS CITY	12093
FL	JACKSONVILLE	DUVAL COUNTY	10565
TX	HOUSTON	HOUSTON ISD	9210
FL	BARTOW	POLK COUNTY	9057
FL	TAMPA	HILLSBOROUGH COUNTY	8781
TN	NASHVILLE	MERTO NASHVILLE DAVIDSON	8277
FL	ORLANDO	ORANGE COUNTY	8030
TX	DALLAS	DALLAS ISD	7766
TX	FORT WORTH	FORT WORTH ISD	6269
FL	PENSACOLA	ESCAMBIA COUNTY	5636
FL	FT LAUDERDALE	BROWARD COUNTY	5255
AL	MONTGOMERY	MOTGOMERY PUBLIC	5053
TX	HOUSTON	ALDINE ISD	4541
TX	HOUSTON	ALDINE ISD	4541
TX	SAN ANTONIO	NORTHSIDE ISD	4486
AL	MOBILE	MOBILE COUNTY PUBLIC	4187
FL	CLEARWATER	PINELLAS COUNTY	3931
AL	BIRMINGHAM	JEFFERSONCOUNTY	3876
SC	GREENVILLE	SCH DIST OF GREENVILLE	3096
FL	FT MYERS	LEE COUNTY	3077
LA	BATON ROUGE	EAST BATON ROUGE PARISH	2956
CK	TULSA	TULSA CITY ISD	2894
TX	SAN ANTONIO	SAN ANTONIO ISD	2608
KY	LOUISVILLE	JEFFERSON COUNTY PUBLIC	2607
FL	ROCKLEDGE	BREVARD COUNTY	2508
TX	ARLINGTON	ARLINGTON ISD	2329
FL	WEST PALM BEACH	PALM BEACH COUNTY	2253
CK	OKLAHOMA CITY	OKLAHOMA CITY PUBLIC	2249
TX	CORPUS CHRISTI	CORPUS CHRISTI ISD	2163
NC	WINSTON-SALEM	FORSYTH CO-WINSTON SALEM	2072
OH	TOLEDO	TOLEDO PUBLIC	1890
IN	INDIANAPOLIS	INDIANAPOLIS PUBLIC	1847
TX	SAN ANOTONIO	NORTH EAST ISD	1573
CH	CLEVELAND	CLEVELAND CITY	1522
AL	BIRMINGHAM	BIRMINGHAM CITY	1490
FL	MIAMI	DADE COUNTY	1359
OH	COLUMBUS	COLUMBUS OHIO CITY	1325
OH	CINCINATI	CINCINATI CITY	1312
FL	SANFORD	SEMINOLE COUNTY	1295
NC	FAYTTEVILLE	CUMBERLAND COUNTY	1118
LA	SHREVEPORT	CADDO PARISH	1043
CA	SANTA ANA	SANTA ANA UNIFIED	840
LA	HARVEY	JEFFERSON PARISH	814
NV	LAS VEGAS	CLARK COUNTY	783
GA	MARIETTA	COBB COUNTY	766
TX	AUSTIN	AUSTIN ISD	735
SC	CHARLESTON	CHARLESTON COUNTY	625
KS	WICHITA	WICHITA PUBLIC	611
CA	FRENSO	FRENSO CITY UNIF	546
NC	CHARLOTTE	CHARLOTTE MECKLEBURG	419
GA	LAWERENCEVILLE	GWINNETT COUNTY	392
MD	ANNAPOLLIS	ANNE ARUNDEL COUNTY	346
MI	DETROIT	DETROIT PUBLIC	284
VA	MANASSAS	PRINCE WILLIAM CO	274
NC	RALEIGH	WAKE COUNTY PUBLIC	263
MO	KANSAS CITY	KANSAS CITY	236
WV	CHARESTON	KANAWNA COUNTY	202
DC	WASHINGTON	DISTRICT OF COLUMBIA	152
GA	DECATUR	DEKALB COUNTY	146
VA	NORFOLK	NORFOLK PUBLIC	133

Office of Civil Rights Elementary and Secondary School Survey Data for 1976 - 1984 - 1986

Year	State	Total Number of Schools in State	Number of Schools included in Sample	Projected Number of Corp.Punish.Incidents
1976	US	88184	881	1521896
1976	AL	1362	1362	53765
1976	AK	299	299	1233
1976	AZ	977	977	13818
1976	AR	1086	1086	46719
1976	CA	8597	8597	30920
1976	CO	965	965	5377
1976	CT	973	973	699
1976	DE	224	224	3186
1976	DC	196	196	5
1976	FL	1034	1034	170172
1976	GA	1973	1973	121256
1976	HA	225	225	2
1976	ID	662	662	4192
1976	IL	4434	4434	76300
1976	IN	2284	2284	50019
1976	IA	1932	1932	3753
1976	KS	1473	1473	8929
1976	KY	1323	1323	46531
1976	LA	1517	1517	24340
1976	ME	822	822	120
1976	MD	1400	1400	4730
1976	MA	2030	2030	0
1976	MI	4104	4104	25267
1976	MN	1997	1997	544
1976	MS	871	871	50758
1976	MO	2271	2271	38912
1976	MT	677	677	1481
1976	NE	1957	1957	791
1976	NV	285	285	4702
1976	NH	385	385	14
1976	NJ	2560	2560	0
1976	NM	723	723	14512
1976	NY	4010	4010	2320
1976	NC	1064	1064	50150
1976	ND	448	448	77
1976	OH	3861	3861	110072
1976	OK	1912	1912	65651
1976	OR	1515	1515	7465
1976	PA	4363	4363	35712
1976	RI	388	388	0
1976	SC	1170	1170	33322
1976	SD	501	501	129
1976	TN	1009	1009	77411
1976	TX	4907	4907	262663
1976	UT	482	482	402
1976	VT	372	372	107
1976	VA	1873	1873	19921
1976	WA	1425	1425	10067
1976	WV	1128	1128	18149
1976	WI	2379	2379	808
1976	WY	287	287	2031
1984	US	81242	33132	1332317
1984	AL	1251	704	37383
1984	AK	616	231	327
1984	AZ	844	488	6961
1984	AR	1232	429	22486

Office of Civil Rights Elementary and Secondary School Survey Data for 1976 - 1984 - 1986

Year	State	Total Number of Schools in State	Number of Schools included in Sample	Projected Number of Corp.Punish.Incidents
1984	CA	7458	3158	6971
1984	CO	1093	629	779
1984	CT	1148	532	353
1984	DE	167	134	4234
1984	DC	165	164	0
1984	FL	2236	1456	97214
1984	GA	1613	832	30062
1984	HA	234	232	0
1984	ID	450	244	597
1984	IL	3638	1018	6443
1984	IN	2039	742	16040
1984	IA	1503	411	281
1984	KS	1861	586	1462
1984	KY	1128	538	19103
1984	LA	1444	923	24064
1984	ME	703	303	4
1984	MD	904	754	222
1984	MA	1622	569	0
1984	MI	3234	864	4448
1984	MN	1651	510	53
1984	MS	697	365	27071
1984	MO	1665	560	4603
1984	MT	840	304	332
1984	NE	1593	546	161
1984	NV	282	217	1457
1984	NH	364	180	0
1984	NJ	2404	772	0
1984	NM	672	363	6544
1984	NY	4019	1344	23
1984	NC	2110	1040	28790
1984	ND	532	219	23
1984	OH	3285	887	26238
1984	OK	1761	568	20384
1984	OR	1376	598	556
1984	PA	3724	890	3246
1984	RI	319	224	1
1984	SC	1203	690	23353
1984	SD	658	229	13
1984	TN	1675	815	42197
1984	TX	6412	2144	97398
1984	UT	745	507	8
1984	VT	369	77	0
1984	VA	1535	922	2779
1984	WA	1747	778	4228
1984	WV	902	602	2499
1984	WI	1783	522	346
1984	WY	326	218	432
1986	AL	1417	749	42770
1986	AK	425	275	233
1986	AZ	1068	617	5911
1986	AR	1128	396	23013
1986	CA	7891	3614	5103
1986	CO	1401	730	683
1986	CT	1124	523	89
1986	DE	141	138	1204
1986	DC	181	178	152
1986	FL	2058	1663	87218

Office of Civil Rights Elementary and Secondary School Survey Data for 1976 - 1984 - 1986

Year	State	Total Number of Schools in State	Number of Schools included in Sample	Projected Number of Corp.Punish.Incidents
1986	GA	2023	1058	49186
1986	HA	235	233	0
1986	ID	492	285	534
1986	IL	3873	1032	957
1986	IN	2378	836	15975
1986	IO	1436	488	269
1986	KS	1548	532	1167
1986	KY	1289	638	14733
1986	LA	1467	978	23476
1986	ME	679	280	0
1986	MD	1029	915	552
1986	MA	1607	710	0
1986	MI	441	115	4322
1986	MN	1670	621	21
1986	MS	1002	480	33463
1986	MO	2359	802	5589
1986	MT	608	225	158
1986	NE	1490	333	173
1986	NV	259	219	917
1986	NH	369	183	0
1986	NJ	2706	925	11
1986	NM	600	400	6787
1986	NY	5240	2031	23
1986	NC	1901	1036	18300
1986	ND	439	186	5
1986	OH	3457	1085	19747
1986	OK	1981	887	26493
1986	OR	1418	556	631
1986	PA	3194	942	2424
1986	RI	326	230	1
1986	SC	938	655	21051
1986	SD	565	229	67
1986	TN	1427	736	42769
1986	TX	5889	2567	121862
1986	UT	499	416	55
1986	VT	300	93	0
1986	VA	1666	974	3059
1986	WA	1635	911	2021
1986	WV	1021	667	2597
1986	WI	1536	579	101
1986	WY	325	218	189
1986	US	82999	37298	586061

Mr. OWENS. Out next panel consists of Dr. James M. Swanson, Professor of Pediatrics and Psychiatry and Social Sciences, the University of California, Mrs. Mary Fowler Cox, the Parent Support Groups, Attention Deficit Disorder Association of USA and CH.A.D.D.

Welcome. You may begin, Dr. Swanson.

Would all of those who are leaving please do so quietly. We are behind schedule. I want to thank both of you for waiting so long, but, as you see, we had a very full agenda.

Dr. Swanson.

STATEMENTS OF JAMES M. SWANSON, PROFESSOR OF PEDIATRICS, PSYCHIATRY, AND SOCIAL SCIENCES, UNIVERSITY OF CALIFORNIA, AND MARY FOWLER COX, PARENT SUPPORT GROUPS, ATTENTION DEFICIT DISORDER ASSOCIATION OF THE USA AND CH.A.D.D.

Dr. SWANSON. As you indicated, I am a Professor of Pediatrics and Psychiatry and Social Science at the University of California in Irvine. My specialty is on the evaluation and treatment of children with attention deficit disorder.

I am also the Program Chair for a group of professionals who meet once a year to discuss attention deficit disorder, its existence, its various forms and its treatment. That's the Bloomingdale group which has been meeting for the last ten years and currently publishes a monograph in the Journal of Child Psychology and Psychiatry on attention deficit disorder each year.

Over the years attention deficit disorder has been discussed and its labels have been changed, but it is clear from numerous studies in the literature that this disorder does exist and it is well-defined. The labels tend to change, the children don't.

It is a complicated disorder. Oftentimes it has other disorders associated with it. It is a disorder whose natural history indicates there's a very poor outcome. Children are failing in school and tend to get arrested at a much higher rate than children without attention deficit disorder.

Attention deficit disorder was one of the topics addressed by the Interagency Committee that was commissioned by Congress to have a national conference on learning disabilities in 1986. The report to Congress went after that.

One of the five topics addressed in that conference was attention deficit disorder, and one of the issues addressed was how it might be included in the definition in Public Law 94-142. Specifically, there was some discussion about how it might be related to learning disabilities and the definition of learning disabilities.

I would like to make one comment about that report and read one paragraph since there were two or three days of discussions on this issue.

The definition that was proposed in 1986 by the Interagency Committee was recommended for revision in 1987. The relationship between the attention deficit disorder with or without hyperactivity and learning disabilities is not addressed, according to the committee. The committee believes that there is evidence that attention deficit disorder may be best considered in the same category as other conditions that may either accompany a learning disability or cause learning problems but not disabilities. Thus, it should be added to the definition.

Finally, the fact that these handicapping conditions cause learning problems but not what is intended by the term learning disability. It is not clear in the definition and it should be specified.

I think it is clear that attention deficit disorder is different than learning disabilities and that the overlap between attention deficit disorder and learning disabilities is not as high as once was expected. The overlap seems to be ten percent or less.

We can recognize attention deficit disorder. It can be treated. It certainly requires multiple treatment modalities. One of the areas that has been very deficient in the past in the treatment of attention deficit disorder has been specific treatments in the schools. An educational component is entirely necessary to have any impact on the overall treatment of children with attention deficit disorder.

Children are in the schools for a majority of time during the day and that's where many of the difficulties arise associated with the inattention, impulsivity and overactivity of these children. So, special programs in the schools I think are essential, and, in fact, I've committed my career to the development and implementation of those types of programs.

It is essential to get school participation in this process. Including attention deficit disorder in your deliberations about Public Law 94-142 would be very helpful in developing programs in school settings that would treat this disorder.

I think if we did that, we could certainly prevent the extremely poor outcome that these children face when their disorder is not treated in this way.

Thank you.

Mr. OWENS. Thank you.

Ms. Fowler.

Ms. COX. Mr. Chairman and members of the subcommittee, thank you for considering our testimony on the discretionary programs under the Education for the Handicapped Act.

My name is Mary Fowler Cox. I am the parent of a child with attention deficit hyperactivity disorder. I am the chairperson of a parent support group in New Jersey representing children with attention deficit disorder. I am a representative of the coalition of the National support groups of attention deficit disorder, ADDA. I am the author of a book soon to be published in May on the subject of attention deficit disorder written from a parent's perspective, and I am a certified teacher.

As a coalition of support groups, we believe in the integrity of the Education for Handicapped Act in Public Law 94-142. However, as the rules and regulations are currently written, children with attention deficit hyperactivity disorder are not served. In fact, these children are currently excluded from needed special education services.

Yet, children with attention hyperactivity disorder have a handicapping condition whose nature is such that the symptoms of the disorder in many cases seriously compromise the attention deficit hyperactivity disorder child's ability to benefit from a free and appropriate public education.

We would like to clarify for the record the definition of attention deficit hyperactivity disorder, the ramifications of its symptomatology and the child's ability to benefit from a free and appropriate public education, and the reasons why existing definition and criteria do not provide special educational services for those children whose primary handicapping condition is attention deficit disorder.

Attention deficit hyperactivity disorder is synonymous with the term ADD. It's a disorder of developmentally inappropriate degree of inattention, impulsiveness and overactivity which arises in early childhood and is relatively chronic throughout adolescence. The disorder is significantly pervasive and appears to have a biological predisposition. This disorder is not the direct result of gross brain damage, psychosis, autism, or severe/profound mental retardation.

The core symptoms of the disorder include a short attention span/destructibility, impulsivity, disorganization and in a significant percentage of children hyperactivity. ADHD is primarily genetically transmitted. Though the exact biological mediation is not yet proven, the disorder is neurologically based and thought to be caused by a deficiency in brain neurotransmitter chemicals, specifically dopamine and/or norepinephrine.

ADHD is estimated to effect three to six percent of the school age population. Statistics suggest a higher prevalence rate among males; however, girls with ADHD represent a significant underidentified and underserved population. Dr. Sally Shewitz, when I interviewed her for the book I wrote, said to me that this disorder has been thought to be so much predominantly a male disorder that girls over the years have been overlooked and are not even diagnosed.

In general, attention deficit hyperactivity disorder is manifested in elementary school age children as follows. They may exhibit inappropriate activity unrelated to task, poor ability to sustain attention and to concentrate, difficulty inhibiting impulses, organization problems, attention-seeking behaviors, low frustration tolerance, low self-esteem, interpersonal difficulties with peers, and learning difficulties.

Such characteristics account for the reason why ADHD children are at-risk for poor school performance and academic failure. Unlike their non-disabled peers, the education promised to all American children is much harder to come by for attention deficit hyperactivity disorder children whose symptomatology prevents them from sustaining attention, filtering out distractions, organizing themselves and thinking before acting.

Furthermore, the unevenness and inconsistency of their symptoms often creates a scenario whereby these children are perceived as lazy and are not trying hard enough. Consequently, ADHD children are often penalized for exhibiting the symptoms of their disorder.

In light of the testimony before, I would like to point out here that ADHD children at are significant risk for emotional abuse in school on the basis of their symptomatology and are often blamed for that. They are at the mercy of their characteristics and they usually get on the other end of the stick.

The ramifications of the symptomatology of the disorder in the school environment are such that ADHD children suffer academic productivity problems and information processing problems. They do not learn in a reliable and efficient manner without appropriate intervention. Furthermore, as these children advance through the school years and are met with tasks which build on previously assumed skills and become more complex, they become further compromised by their inability to process information reliably and efficiently.

Beyond the elementary school years, as tasks require more independent work on the part of the student, attention deficit hyperactivity disorder children, given their problems of sustaining attention, consistently demonstrate their inability to work on tasks independently and, as a result, they experience more failure.

In addition to academic productivity problems and information processing problems, their characteristic disorganization leads to poor storage and retrieval of information often impeding the child's ability to demonstrate acquired knowledge on demand.

Untreated ADHD children are a population at risk. Children who have a severe degree of the disorder are eight times more likely to drop out of school, they are four times more likely to be retained than their non-ADHD peers. Research studies indicate 80 percent of ADHD children fail at lest one major academic subject before high school graduation.

As a consequence of receiving continuous negative feedback, they suffer low self-esteem. Studies also suggest that the incident of substance abuse is greater among the untreated ADHD population.

The recommended treatment for attention deficit hyperactivity disorder children, as specified in the treatment guidelines of the American Academy of Child and Adolescent Psychiatry strongly emphasizes the use of a multi-modal approach.

The multi-modal approach calls for four key interventions. Education about the disorder to the parents, the child, the child's teachers and other significant others, parent training in behavior management, appropriate educational program, and medication in the cases indicated. Other therapies may be employed as needed.

In the 1987 Interagency Report on Learning Disabilities presented to the U.S. Congress, among other findings, Bennett A. Shaywitz, M.D., reported, "educational management represents an important priority and often forms the cornerstones of all other therapies."

Despite these findings, ADHD children have no protection under Public Law 94-142 as the regulations are currently written. It is important to note that current research indicates that although many ADHD children will exhibit academic performance problems, the majority of these children would not meet criteria for placement in exceptional education programs for children with specific learning disabilities in most states.

Shaywitz and Shaywitz in the newly-published text, Learning Disabilities: Proceedings of the National Conference, editors Kavanagh and Truss, 1988, indicate that as few as ten percent of children with ADHD may be classified as learning disabled.

This figure, lower than the previous estimates of the incidence of specific learning disability within the ADHD population was arrived at when criteria for classifying children as learning disabled depended upon the use of an ability achievement discrepancy model. Such models are typically and frequently used in states across the country to classify their learning disabled students despite the fact that nowhere in Public Law 94-142 is such a formula prescribed.

By using ability achievement discrepancy as part of the criteria to classify learning disabled children, as many as 90 percent of children with attention deficit hyperactivity disorder could be eliminated from the specific learning disability eligible group.

Therefore, the majority of ADHD children in the United States are generally not admitted into exceptional education programs on the basis of a co-existing learning disability unless they happen to be "blessed" with a separate disorder which meets the current eligibility criteria. The point here is that one disability is not enough for these children, for services.

Given the fact that most ADHD children will not meet eligibility requirements for exceptional children education on the basis of having a co-existing handicapping condition as specified in Public Law 94-142, and considering that a recent NIH report described ADHD children "as a chronic disorder affecting the child's home, school and community life" who suffers or at risk for academic failure, it is essential that children suffering from the disorder be eligible for special education services.

Currently they are not being served by any program. It is strongly recommended that ADHD and undifferentiated attention deficit disorder be recognized and enumerated as a handicapping condition in and of itself, or added to Public Law 94-142 under the definition of specific learning disability in addition to minimal brain dysfunction.

However, it is imperative that the regulations for defining ADHD also be changed to reflect the fact that these students' deficits in functioning are primarily related to discrepancies in ability and attention rather than to discrepancies in ability and achievement. Unless this is updated as well, significant numbers of ADHD students in need of services will be overlooked and underserved.

State of the art research suggests that 60 to 70 percent of children with ADHD can be served in regular education with modifications in their school programs. Thirty to thirty-five percent of children with ADHD will require special education services for a portion of this day, and of this 30 to 35 percent figure, 10 percent will require full-day programs.

It is important to recognize that the 10 percent who will require full-day programs represent the population of children with ADHD who have other handicapping conditions as well, and we believe in most instances this population is being served.

However, the remaining 20 to 25 percent of children in need of special education services are being excluded from special education services on the basis of exclusionary criteria. Furthermore, the 60 to 70 percent of children who need modifications in their regular education programs receive such interventions only when districts and individual teachers prove sympathetic to the ADHD student's needs. We do not feel ADHD children's education should be relegated to the luck of the draw.

In short, we would strongly urge this committee to include ADHD in the law under the definition of specific learning disabilities if it cannot have its own handicapping condition, with the concomitant directive indicating that criteria defining this condition be included in the regulations so as to accurately identify children with ADHD and not exclude them if they do not have co-existing learning disabilities or emotional disturbance.

In terms of speaking now as a parent, I can tell you that I am very fortunate in having been a certified teacher in that I know a little bit how to negotiate through the educational maze. I am perhaps not as intimidated as other parents who are faced, first of all, with a diagnosis that they have a handicapped child and that the manifestations of this child's disorder are going to affect this child's ability to learn.

They get into the educational system and they say, I have a diagnosis here and my treatment primary care physician says my child needs services in school, and what they are being told is that ADHD is not a qualifying handicapping condition and that these children—I know of one child with a 138 IQ in sixth grade.

In sixth grade, this child failed every subject. His mother was told he is lazy and what you should do is you should let him experience failure and maybe when he's had enough he'll understand that he should work to his potential. This is a child whose symptomatology is such that he cannot work to his potential.

Sandra Thomas who is in the room with us today also has a child with attention deficit hyperactivity who in kindergarten was put in a closet because he would not sit still.

In the course of writing my book I happened to interview 25 parents and I spoke to one whose child was kept from going on a school trip because he did not bring the necessary materials to class the day before, yet, ADHD is characterized by disorganization and the inability to focus long enough and sustain attention to remember to bring the things you needed from home to school and vice versa.

These children are constantly being penalized on the basis of their symptoms and right now there is no legislation that we, as parents, have no rights to get the needed services for our children unless we happen to move to a district that is sympathetic to the needs of these children.

That is a very important point. Dr. Russell Barkley at the University of Massachusetts has told me he has often had to recommend to parents that they move—literally move—to another district to try to get special needed services. It is not fair and it is not equitable across the board.

Thank you.

[The prepared statements of James M. Swanson and Mary Fowler Cox follow:]

CH.A.D.D.
CHILDREN WITH ATTENTION DEFICIT DISORDERS
"Parents Supporting Parents"

TESTIMONY PRESENTED BEFORE THE SUBCOMMITTEE ON SELECT EDUCATION HOUSE COMMITTEE ON EDUCATION AND LABOR ON DISCRETIONARY PROGRAMS UNDER THE EDUCATION OF THE HANDICAPPED ACT

February 21, 1990

Submitted by:
James Swanson, PhD.
University of California, Irvine

Mary Fowler Cox
ADD Parent Support Groups

For further background contact:
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Mr. Chairman and members of the Subcommittee,

On behalf of the Attention Deficit Disorder Association (ADDA) and Children with Attention Deficit Disorders (CH.A.D.D.) which are national support organizations representing children with Attention-deficit Hyperactivity Disorder, we are appreciative of the opportunity to express our concerns regarding the reauthorization of the discretionary programs under The Education of the Handicapped Act (EHA).

Attention-deficit Hyperactivity Disorder (ADHD), synonymous with ADD is a disorder of developmentally inappropriate degree of inattention, impulsiveness, and overactivity which arises in early childhood and is relatively chronic throughout adolescence. The disorder is significantly pervasive and appears to have a biological predisposition. This disorder is not the direct result of gross brain damage, psychosis, autism, or severe/profound mental retardation.

The Diagnostic and Statistical Manual, 111R of the American Psychiatric Association codifies the disorder under 300.14 and specifies that in order to be diagnosed as having ADHD, prior to the age of seven, a child must present with a disturbance of at least six months during which at least eight of the following are present:

1. often fidgets with hands or feet or squirms in seat
2. has difficulty remaining seated when required to do so
3. is easily distracted by extraneous stimuli
4. has difficulty awaiting turns in games or groups situations
5. often blurts out answers to questions before they have been completed
6. has difficulty following through on instructions
7. has difficulty sustaining attention in tasks or play activities
8. often shifts from one uncompleted activity to another
9. has difficulty playing quietly when asked
10. often talks excessively
11. often interrupts or intrudes on others
12. often does not seem to listen to what is being said
13. often loses things necessary for tasks or activities at school or at home
14. often engages in physically dangerous activities without considering possible consequences (not for purposes of thrill-seeking)

Criteria for severity ranges from mild to severe and is determined by amount and pervasiveness of symptoms.

DSM111R also provides a second category 300.00 Undifferentiated Attention-deficit Disorder for children with disturbances in which the primary characteristics is significant inattentiveness without signs of hyperactivity.

The core symptoms of the disorder include short attention span/distractibility, impulsivity, disorganization, and in a significant percentage of children, hyperactivity. ADHD is primarily genetically transmitted. Though the exact biological mediation is not yet proven, the disorder is neurologically based and thought to be caused by a deficiency in certain neurotransmitter chemicals, specifically dopamine and/or norepinephrine. ADHD is estimated to effect 3-6% of the school age population. Statistics suggest a higher prevalence among males. However, girls with ADHD represent a significant underidentified and underserved population.

In general, ADHD is manifested in elementary school age children as follows. They may exhibit inappropriate activity unrelated to task, poor ability to sustain attention and to concentrate, difficulty inhibiting impulses, organization problems, attention-seeking behaviors, low frustration tolerance, low self-esteem, interpersonal difficulties with peers and learning difficulties. Such characteristics account for the reason why ADHD children are at risk for poor school performance and academic failure. Unlike their non-disabled peers, the education promised to all American children is much harder to come by for ADHD children whose symptomatology prevents them from sustaining attention, filtering out distractions, organizing themselves and thinking before acting. Furthermore the unevenness and inconsistency of their symptoms often creates a scenario whereby these children are perceived as lazy and/or not trying hard enough. Consequently, ADHD children are often penalized for exhibiting the symptoms of their disorder.

The ramifications of the symptomatology of the disorder in the school environment are such that ADHD children suffer academic productivity problems and information processing problems. They do not learn in a reliable and efficient manner without appropriate intervention. Furthermore, as these children advance through the school years and are met with tasks which build on previously assumed skills and become more complex, they become further compromised by their inability to process information reliably and efficiently. Beyond the elementary school years, as tasks require more independent work on the part of the student, ADHD children, given their problems sustaining attention, consistently demonstrate their inability to work on tasks independently and as a result experience more failure. In addition to academic productivity problems and information processing problems, their characteristic disorganization leads to poor storage and retrieval of information, thus often impeding the child's ability to demonstrate acquired knowledge on demand.

Untreated ADHD children are a population at risk. Children who have a severe degree of the disorder are eight times more likely to drop out of school. They are also four times more likely to be retained than their non-ADHD peers. Research studies indicate 80% of ADHD children fail at least one major academic subject before high school graduation. As a consequence of receiving continuous negative feedback, they suffer low self-esteem. Studies also suggest that the incidence of substance abuse is greater among the untreated ADHD population.

The recommended treatment for ADHD children as specified in the treatment guidelines of the American Academy of Child and Adolescent Psychiatry strongly emphasizes the use of a multimodal approach. The multimodal approach calls for four key interventions: education about the disorder, parent training in behavior management, appropriate educational program, and medication (in cases indicated). Other therapies may be employed as needed.

In the 1987 Interagency Report on Learning Disabilities presented to the U.S. Congress, among other findings, Bennett A. Shaywitz, M.D. reported "Educational management represents an important priority and often forms the cornerstone of all other therapies..." Despite these findings, ADHD children have no protection under PL94-142 as the regulations are currently written. It is important to note that current research indicates that although many ADHD children will exhibit academic performance problems, the majority of these children would not meet criteria for placement in exceptional education program for children with specific learning disabilities in most states. Shaywitz and Shaywitz, in the newly published text LEARNING DISABILITIES: PROCEEDINGS OF THE NATIONAL CONFERENCE (Kavanagh and Truss 1988) indicate that as few as 10% of children with ADHD may be classified as "learning disabled". This figure, lower than previous estimates of the incidence of specific learning disability within the ADHD population, was arrived at when criteria for classifying children as learning disabled depended upon the use of an ability/achievement discrepancy model. Such models are typically and frequently used in states across the country to classify their learning disabled students, despite the fact that no where in the PL94-142 is such a formula prescribed.

By using ability/achievement discrepancy as part of the criteria to classify learning disabled children as many as

90% of children with ADHD could be eliminated from the specific learning disability eligible group. Therefore, the majority of ADHD children in the United States are generally not admitted into exceptional education programs on the basis of a co-existing learning disability unless they happen to be "blessed" with a separate disorder which meets the current eligibility criteria.

Given the fact that most ADHD children will not meet eligibility requirements for exceptional children education on the basis of having a co-existing handicapping condition as specified in PL94-142, and considering that a recent NIH report described ADHD as "a chronic disorder affecting the child's home, school and community life" whose sufferers are at risk for academic failure, it is essential that children suffering from this disorder be eligible for exceptional student education services. Currently, they are not being served by any program. It is strongly recommended that ADHD and UADD be recognized and enumerated as a handicapping condition in and of itself or added to PL94-142 under the definition of specific learning disability in place of Minimal Brain Dysfunction. However, it is imperative that the regulations for defining ADHD also be changed to reflect the fact that these students' deficits in functioning are primarily related to discrepancies in ability and attention rather than to discrepancies in ability and achievement. Unless this is updated as well, significant numbers of ADHD students in need of services will be overlooked and underserved.

State of the art research suggests that 60 to 70% of children with ADHD can be served in regular education with modifications in their school programs, 30 -35% of children with ADHD will require special education services for a portion of their day and of this figure, 10% will require full day programs. It is important to recognize that the 10% who require full day programs represent the population of children with ADHD who have other handicapping conditions as well. We believe in most instances, this population is being served. However, the remaining 20 - 25% of children in need of special education services are being excluded from special education services on the basis of exclusionary criteria. Furthermore, the 60-70% of children who need modifications in their regular education programs receive such interventions only when districts and individual teachers prove sympathetic to the ADHD student's needs. We do not feel ADHD children's education should be relegated to the luck of the draw and strongly urge the Subcommittee to recognize the special education needs of this population and make provision for the appropriate eligibility criteria to be included.

Educational Services Necessary for Students with Attention-deficit Hyperactivity Disorder

Effective identification and management of the educational needs of ADHD students requires greater teacher education and awareness of the disorder, implementation of standardized screening and assessment techniques for identifying students with ADHD, and application of proven educational and psychological strategies to teach and manage students with the disorder (this may or may not require the student to be eligible for exceptional student education services depending on the degree to which the student's learning and behavior are impaired by the disorder).

Training School Personnel

The majority of educators in this country have had very little training in teaching students with ADHD. Schools of education in colleges and universities have not provided instructional material on this disorder to properly train our nation's teachers. It is essential that programs be made available to educate school administrators, teachers, guidance personnel, and other school-based professionals about this disorder. Such programs could be delivered through in-service training, recertification courses, or added to already existing curricula within college and university settings. These programs should include topics such as:

1. Characteristics of students with ADHD.
2. Methods of identifying students with ADHD.
3. Etiology, treatment, and course of ADHD.
4. Techniques and strategies for effectively teaching students with ADHD.
5. Educational, psychological, and social needs of ADHD students.
6. Understanding the family of ADHD students.
7. Networking with physicians, mental health professionals, and parents to design and implement a multi-modal treatment plan for the ADHD student.

Assessment of Students' Needs

Providing direct services to students considered at risk for ADHD should begin with proper assessment. This will likely require the coordinated efforts of a multi-modal assessment team comprised of: the members of a school's child study team (i.e. teachers, school psychologists, guidance counselors, exceptional student education specialists, etc.), input from medical specialists such as pediatricians, neurologists, or psychiatrists, and opinions of other health care professionals (i.e. clinical or educational psychologists, psychiatric social workers, mental health counselors, speech and language therapists, occupational or physical therapists, etc.) who may have evaluated the individual. Since the average age of onset of ADHD is within the preschool years it is important that appropriate screening and referral procedures for early identification be established and that guidelines be set up to provide for identification of suspected students with ADHD in all grades. The following points should be considered in the setting up of such procedures:

1. Standardized screening procedures for ADHD should be available for preschool and kindergarten students who are identified as being at risk.
2. Once a student in any grade has been screened or identified by teachers and parents to be at risk for ADHD standardized procedures should be followed to provide for a comprehensive assessment. Such assessment procedures should make use of multiple sources of information about the student and should include:
    a. A general medical evaluation.
    b. A structured interview with the student's parents and teachers.
    c. Completion of behavior rating scales by the student's parents and teachers, i.e. Conner's Teacher Rating Scale, Conner's Parent Rating Scale, Child Behavior Checklist, ADD-H: Comprehensive Teacher Rating Scale, ACTeRs, Yale Children's Inventory.
    d. Observation of the student 's performance in the classroom.
    e. Assessment of the student's performance on tests of intelligence, cognitive processing, emotionality, and academic achievement.
    f. Assessment of the student's performance on tests specifically designed to measure sustained attention and impulsivity, i.e. continuous performance tasks, Matching Familiar Figure Test.
    g. Assessment of the student's speech, language, and fine and gross motor functioning when indicated.

Educational Programming, Accomodations, and Related Services

Following the assessment if it is determined that the student's classroom behavior and learning is significantly impaired as a result of having ADHD then appropriate recommendations should be made by the child study team that allow for the student to be classified as handicapped on this basis and to receive any educational services deemed necessary by the team. This should occur even if the student's handicapping condition is solely due to the ADHD without the co-existence of either a learning disability, severe emotional disturbance, or other heretofore recognized handicapping condition under P.L. 94-142. In such cases an Individual Educational Plan (IEP) should be developed with respect to the student's instructional programming. Such programming should be geared to each student's individual needs as identified in the comprehensive assessment.

The needs of many ADHD students may be adequately served within the regular classroom as long as accomodations for the student's learning and behavioral difficulties are made. Such accomodations may involve the implementation of behavioral management programs, greater teacher supervision of the student, revised teacher expectations to account for the student's handicaps, the presence of a teacher's aide to assist with instruction, etc. Placement of ADHD students within the "least restrictive environment" guidelines should be followed. However, some ADHD students with severe conditions may require placement in resource classrooms either part time or full time, or placement in day treatment or residential treatment programs. Periodic re-evaluation of students' needs should be done with resulting redesign of the IEP so as to take into account possible changes due to treatment effects, maturation, and other factors.

Mr. **Owens**. Thank you. I think yesterday we had several witnesses testifying that we were adding too many categories, new categories, to the list of disabilities. Are you saying that we should add another one, is that correct?

Ms. **Cox**. I'm saying I don't want my child to be the one who doesn't get services. Absolutely. You should add another one.

Mr. **Owens**. Under the present categories there is no coverage?

Ms. **Cox**. They don't——

Mr. **Owens**. Is it that there is no competent interpretation of those categories and no coverage, is that what you're saying?

Ms. **Cox**. I'm saying there is neither competent interpretation of those categories nor coverage. ADHD children will not meet the ability achievement formula which is the formula used to include children or exclude children from special education in 46 of the 50 states.

Mr. **Owens**. It sounds as if many of the youngsters who may be labeled severely emotionally disturbed might also suffer from this condition and may be wrongly labeled as severely emotionally disturbed. Has that been a problem? In your literature and your studies have you found any correlation between them?

Dr. **Swanson**. Well, I think that it's very necessary to know what attention deficit disorder is not as well as to know what it is to come up with a clear definition of the disorder.

The ADD syndrome co-exists with other disorders, but it is not the cause of those disorders and I think oftentimes it might be the result of an underlying depression or an underlying conduct disorder and not the attention deficit disorder syndrome in a pure form. So, there is some association——

Mr. **Owens**. Have you found any——

Dr. **Swanson**. [continuing] with other disorders but I think those disorders need to be labeled in another way, not——

Mr. **Owens**. Have you found a pattern of mislabeling where as youngsters who have the attention deficit disorder are being labeled severely emotionally disturbed?

Dr. **Swanson**. I think the mislabeling occurs sometimes to get special services in the school. I know that if you read the report from the Interagency Committee on the learning disability, on the proceedings of the National Conference on Learning Disabilities, it was clear in the area of learning disabilities itself that children who were just in a special class defined by learning disability standards couldn't all be considered learning disabled and that research in that group had to be considered carefully because many children got into that class because they were mislabeled specifically to get the services.

I think we ought to just be straightforward about it. If a child has attention deficit disorder, we should label him with that and try to get treatment for him for that disorder, not by some backdoor route by mislabeling which is——

Mr. **Owens**. I'm just trying to get at what the literature and the statistics show. For years now I've been hearing that we have an abuse of the category severely emotionally disturbed. That when they can't understand what's going on they often label youngsters severely emotionally disturbed.

Well, that may get him into special education but if he's been mislabeled, they're not going to proceed to give him/her the proper treatment or treat that child in the right way. I just wondered if in your literature or in the statistics, since you're an expert in the field, there been an overlap or you've found a pattern where—black males, for example, are frequently labeled severely emotionally disturbed in schools and put in special education.

I suspect they have other problems. It has been brought to my attention that many of them have other problems and they've been mislabeled. Have you found any pattern of large numbers of black male students being labeled—mislabeled?

Dr. SWANSON. Mislabeled?

Mr. OWENS. Yes.

Dr. SWANSON. I can speak more appropriately to the children who have attention deficit disorder and get mislabeled as having an emotional disorder for a variety of reasons. I'm not sure how that relates specifically to black males because I think it happens across the board, for black males as well as others.

I think that labeling sometimes, as I said before, occurs to get special services. Even if the child does not have emotional disorders and has an attention deficit disorder, it's construed as such. I think there is some overlap though. Some children have both.

I think it is, in my experience, more prevalent for a child to have attention deficit disorder in the form that can be treated and not have the emotional disorder. If the attention deficit disorder is left untreated for years, then I think emotional disorders come about and may co-occur in the older children because of that, because of an attention deficit disorder that was left untreated early in life.

Mr. OWENS. Attention deficit disorder is definitely biologically based?

Dr. SWANSON. As you can hear experts talk, and they have their own books to point to and things like that, there are a variety of opinions on this. If we knew the cause of attention deficit disorder, we would be much closer to solving how to treat it. We don't know the exact cause of it. It has multiple causes.

Mr. OWENS. It is suspected that it is biologically caused.

Dr. SWANSON. I think about a third of the cases probably have a clear biological basis, maybe something that is an inherited personality characteristic. But it's an extreme personality characteristic that results in functional impairment.

Other children are attention deficit disorder because of some thyrogenic effect, perhaps of alcohol consumption or other types of drug use by the mothers during pregnancy. Some fetal maldevelopment and brain maldevelopment that occurs and can affect the parts of the brain that are associated with attention, perseverance and on-goal achievement.

Then there are other groups of attention deficit disorder where we really don't know what the cause is. There are likely multiple causes. But I don't think that it is necessarily all biologically based and we know exactly what the cause is. If someone tells you that, they're just not giving you the full information about the complexity of the disorder.

Mr. OWENS. I think in your testimony, Ms. Cox, you said that there is a correlation between people with this disorder and heavy substance abusers.

Ms. Cox. Untreated children with ADD are at-risk—longitudinal studies show that they are at higher risk for substance abuse than treated ADHD children.

I also wanted to speak for a moment to the issue of being emotionally disturbed. I cannot quote research statistics, but I can tell you of a mother who called me whose child was in first grade.

The child was diagnosed as having attention deficit hyperactivity disorder. He was not enrolled in special education and was not enrolled in special education and was not receiving services. The teacher did not understand the nature of the disorder, kept yelling at the child to sit down and writing nasty notes on his paper telling him to do the work and you're going to sit there until that work gets done, and what have you.

The child eventually one day just took his desk and threw it over. The mother called me hysterical, they want to put my child in a special class for emotionally disturbed kids.

I think what happens often is that kind of behavior would make anybody emotionally disturbed, including myself.

Dr. SWANSON. The question about substance abuse I think should be qualified a little bit. It's my understanding from the literature that attention deficit disorder children are at risk primarily for substance abuse in the area of alcohol and that there's a much higher prevalence of alcohol abuse in attention deficit disorder children grown up than in other groups.

But in other areas, there isn't necessarily a high prevalence of substance abuse. In that one area there is.

Mr. OWENS. How old are your studies? The studies that are available, how old are they?

Dr. SWANSON. They're recent studies. In fact, the recent studies that are ongoing are 30 year follow-ups. One from Canada, in Montreal, and then a shorter but very good 15-year follow-up done in New York by Gittleman and Abokoff. There are also two long-term studies going on in California, one in the Bay Area and one in Los Angeles, by Jim Satterfield.

So, there's several good studies going on now where we have good information about long-term outcome of children who have attention deficit disorder.

Left untreated, it is extremely dismal. I think it's a serious disorder and we need to treat it. It's clear that multiple interventions are necessary. Many studies that have used just one modality of treatment—medication by itself, behavior modification by itself, or something like that—show no long-term effect whatsoever on children.

But combined therapies which always involve some intervention in the school show a very good outcome. It is clear that these children are on the average probably a little above average in intelligence. I'm not sure what the selection process is that associates inattention and hyperactivity with high intelligence, but the average IQ of the children I see it about 112.

These children apparently do too well on achievement tests. They don't do poorly enough to get in special education classes because the discrepancy isn't there. But they still fail in school. So, I think that we're dealing with children who have a potential of very good outcome.

They're bright, they can take advantage of their abilities if given sufficient treatment, and that is a heavy component that has to be in the school. A good percentage of them do very well in the long-run.

So, I think we change something from around 60 percent, or even higher, to 75 percent of the children who have very poor outcome into the majority of those children doing well in school with appropriate intervention.

We do know what to do. We need the cooperation of the schools to implement behavioral programs, educational programs in the classroom and I think putting attention deficit disorder in as a separate category would go a long way to get that type of treatment.

Mr. OWENS. Thank you very much.

Mr. Bartlett.

Mr. BARTLETT. Thank you, Mr. Chairman. I do appreciate the witnesses and your testimony. I've read this as I was sitting here listening to the questions. Let me see if I can understand some sort of basics. My apologies, but you're speaking to a layman here.

First, is there an agreed-upon definition for ADD in the field, in the professional field? What is it and does everyone agree with it?

Dr. SWANSON. That is certainly a complicated issue, as you appreciate. It is unfortunate, but the labels for children with attention deficit disorder tend to change about every four or five years.

That goes back to it being called hyperactivity and then attention deficit disorder with or without hyperactivity. Currently, attention deficit hyperactivity disorder. In the new version of the Diagnostic and Statistical Manual, the American Psychiatric Association—DSM-4 that's coming out in two years—it will be called something else.

But that doesn't mean that the syndrome doesn't exist, and there's an agreement in the professional, scientific and clinical groups of people that the disorder does exist and the core symptoms are there. It's just the changing label.

The children don't change, and the core symptoms still remain what they were 30 or 40 years ago. Inappropriate, overactivity, inattentiveness and impulsivity that results in functional impairment. All children to some extent are inattentive and overactive and impulsive when they're young. But that doesn't mean they have a disorder if it's not functionally impairing.

So, I think the core symptoms have been identified in almost every study done, and there have been literally thousands of studies done over the last 15 years on attention deficit disorder. I don't think there is a disagreement in the literature that the disorder exists; there is a big disagreement on what the label should be.

Mr. BARTLETT. How clear-cut is the diagnosis in a group of ten children with—as you said, most children have these characteristics from time to time of fidgets or difficulty remaining seated.

Dr. SWANSON. Sure.

Mr. BARTLETT. Sometimes ranking minority members of this subcommittee have that difficulty.

[Laughter.]

Mr. **Bartlett**. I do apologize for that, by the way. Difficulty waiting turns. Different children have these same symptoms or activities at different times.

Let me try to pose it this way from a layman's terms. If there were ten children that had these characteristics and they were sent to five different therapists or physicians, would there be agreement among those five as to which had ADD and which did not?

Dr. **Swanson**. I think there would be considerable agreement if you sent those children to a specialist who deals with attention deficit disorder in a concentrated way.

Mr. **Bartlett**. Well, supposing that you sent them to five different specialists.

Dr. **Swanson**. Yeah, five different specialists who emphasize attention deficit disorder in their treatment. I think that it is clear that just because a child is fidgety—and that is certainly something that varies with age—doesn't mean they have attention deficit disorder.

One of the criteria that has been widely recommended, and most people do use, is a standardized rating scale. Parents and teachers are asked to rate the symptoms of hyperactivity and only if that is present to a degree that's abnormal in a statistical sense, two standard deviations above the mean, would it be considered for subsequent evaluation in using a structured interview.

Even then, if it is very extreme relative to the child's age and sex and everything else, a structured interview would be necessary to make sure that the symptom is functionally impairing the child's ability to perform in school or at home.

So, even if it's there and it's not a functional impairment, then a diagnosis is not made. So I think that we are careful diagnosticians. I think it is certainly a scientific basis for going through in a systematic way in identifying the disorder.

Mr. **Bartlett**. So there is no blood test and a white cell count——

Dr. **Swanson**. No blood tests.

Mr. **Bartlett**. [continuing] but there is an increasingly standardized set of criteria?

Dr. **Swanson**. There is. I think that's based primarily on history that's taken from parents and from teachers and to some extent some confirmation with a rating scale or direct observation of the child.

Mr. **Bartlett**. So what you would like to see as a matter of Federal law, whether it's in the law or the regulations—however it comes out, whether it's as a classification of a learning disability or separately—what you would like to see as an outcome would be for a clinically diagnosed child who has been clinically diagnosed with ADD to be classified as having a handicapping condition under Public Law 94-142?

Dr. **Swanson**. Yes.

Mr. **Bartlett**. [continuing] and containing the separate IEP. That's your goal?

Dr. **Swanson**. I think so. I think that would be an admirable goal and would help us a lot in getting treatment for these children who can be helped with interventions in the school.

Mr. **Bartlett**. Okay.

Dr. Swanson. I do not think it's the school's place to diagnose the child, and I think teachers typically would not do it or could not do it in a systematic way. So I would like to emphasize that sending someone to a specialist who deals with the disorder is necessary.

Mr. Bartlett. I think we need to say that. Whatever else we do, I do think we need to be crystal clear at this subcommittee as to what we intend to happen both in the statute and in the committee report.

Ms. Cox, I can't tell you what this subcommittee is going to do. I can tell you that you have raised a very intriguing question.

You may not have heard the Assistant Secretary of Education testify against it yesterday. Not in a harsh way but it didn't strike him, but that doesn't mean his door is closed or our door is closed. It just means that I think what we'd like to do is to pursue accomplishing the objective and maybe come up with several different ways to do that.

Are there any dissenters in the medical profession or in the educational profession to your view that ADD should be classified as a disorder worthy of the protection of Public Law 94-142?

Dr. Swanson. Well, there are always dissenters, particularly in America. I think that they have a every right to dissent. But I think the consensus of scientists and legitimate clinicians who treat these children is that the disorder does exist.

I'm sure you're aware there are groups around who question the disorder and these groups are going to question it for different reasons, and it's not on a scientific basis that they question it.

Mr. Bartlett. Well, the consortia, for example. There is a consortia of disabilities who testified that they didn't think that ADD should be singled out as a separately identifiable disorder.

Ms. Cox. Yes, and that's because of the definition in Public Law 94-142 and the use of the ability achievement discrepancy formula which is not prescribed in Public Law 94-142.

I was here yesterday to hear the testimony and, forgive me if this seems rash, but the message I heard was the pie has been served and there are no more pieces for uninvited guests. That was the message that I heard.

I understand the concern that children will be thrown into categories where they perhaps should not be put into, or that these children will be thrown into learning disabilities. I think what it boils down to is how do you qualify a learning disability if you can't pay attention, if you can't think before acting? If you can't sit still, how are you going to function in the educational environment?

You know, there's something inherently wrong with this picture. If that is not a learning disability, I don't know what it is.

I think what Dr. Swanson is saying is there is more to ADD than just the educational component. There is definitely more to ADD than just the educational component. But the research indicates that if the educational component is not dealt with, these children have a very poor outcome.

I'm married to an adult man who had attention deficit disorder as a child before the name was even recognized or the label was even assigned who did not go to college, who characteristically went through life feeling his hand was caught in the cookie jar, who was not able in school to perform well, who felt that he was stupid and felt that he could not understand why he could not just get with the program.

In the course of interviewing fathers of children with attention deficit disorder for my book, I heard the same story over and over again. One father said the absolute crowning glory for me was my son's report card came home and at the same grade, at the same age level, the teacher had written the same things for me.

The point here is that we have had an underserved population for many, many years. I don't pretend to understand all the clinical ramifications. I certainly think that's best left to professionals who are devoting their careers——

Mr. BARTLETT. Ms. Cox, let me restate what the problem is. The problem, as I see it, is that both the Department of Education, which has responsibility for disabilities and disorders, and the consortia which is somewhat close to being the Holy Catholic Church in Washington in any event, who represents all disabilities and lobbies actively for all disabilities, including ADD, state rather strongly that ADD should not be a disorder singled out in law, in statute.

In fact, they state that it's already covered in statute as a functional impairment. So, if the consortia spokesman were saying that here, how would you respond, Dr. Swanson?

Dr. SWANSON. Well, I don't think that is accurate and I think that you've commissioned experts to address this in a national conference on learning disabilities and their conclusion is that a high percentage of the children who get into special programs with the label of learning disabilities really don't have a learning disability as defined in the law. They have attention deficit disorder and they're going through a back door to get special services.

I mean, these children exist. If we don't have a label for them, they're going to get another label.

Mr. BARTLETT. From that conference can you get us that testimony from someone at the conference in quite as crystal clear terms as you just described?

Dr. SWANSON. The person who presented it. I will get the documentation for you.

Mr. BARTLETT. A letter to the subcommittee would help or the testimony with the letter.

Mr. Chairman, we're way overdue. I would——

Dr. SWANSON. I think your question was well put, though. If we don't have a label of attention deficit disorder, will these children get other labels and get served? That will happen to some extent. But it will be the wrong label and it may be the wrong treatment. These children don't need to be in a regular special education class for children who have learning disabilities——

Mr. BARTLETT. How many children——

Dr. SWANSON. [continuing] defined by IQ achievement test discrepancies.

Mr. BARTLETT. How many children would you estimate in schools today of school age need specific ADD services and who should be labeled ADD?

Dr. SWANSON. I think that the figures were given to you before of the children who have ADD. I think the estimate was 60 percent or more could function in a regular classroom with minimal services that are provided by teachers and behavioral problems that have been developed and published for that.

Mr. **Bartlett**. What's the total number in America?

Dr. **Swanson**. I'm a little conservative. She's going to say something higher than I am. I'm going to say 1.9 percent based on the latest epidemiological study done that I know that required——

Mr. **Bartlett**. 1.9 percent of the total population?

Dr. **Swanson**. Of elementary school age population.

Mr. **Bartlett**. Two percent of the school age population?

Dr. **Swanson**. Have the disorder. I think 60 percent of those, or more, can be served in regular classrooms. Maybe 25 or 30 percent in special education classrooms. There is a certain group of children who need some sort of special intervention even beyond that and I'm not sure how big that group is.

Mr. **Bartlett**. So, six-tenths of one percent to eight-tenths of one percent——

Dr. **Swanson**. I haven't gone through the calculations, but that's——

Mr. **Bartlett**. [continuing] in elementary schools in your opinion should be diagnosed and treated for ADD?

Dr. **Swanson**. But I'm conservative on this issue. I think other people would go higher than that. But I think this is what occurs when you require some sort of pervasiveness of the disorder that's recognized in more than one setting. Now, I don't think I would get general consensus with everyone on this, but this is my opinion.

I have spent ten years or longer focusing on nothing but attention deficit disorder and I do belong to a professional group—it's really an intellectual society—that meets once a year and we do nothing but discuss questions like this.

This group includes some of the best scientists in the United States. Two or three members of the National Academy of Sciences affiliate with us and discuss these matters and we have good scientists as well as good clinicians and I think there is a general consensus about this disorder.

Mr. **Bartlett**. Mr. Chairman, I want to say that I very much appreciate the testimony. I won't ask a question for the record because we're way overdue. But if you could just send me a letter to tell me—because I have now read your testimony, I've read my friend's, Nancy Cornish from Dallas—some of her comments, I have read the Educational Services Necessary for Students with attention deficit hyperactivity disorder and I still don't know included in all these terms what educational services should be provided.

Will you write me a letter and say, if I were a parent, which I am—just as if I were a parent with an ADD child what—when this testimony refers to educational services, make me a list of what that means, as to what that child does in the classroom different from other children.

Mr. Chairman, I'd ask unanimous consent to enter into the record a two-page statement received by Nancy Cornish of Dallas who is a parent of an ADD child.

Mr. **Owens**. Without objection, so ordered.

Thank you again.

Dr. **Swanson**. Thank you.

Ms. **Cox**. Thank you.

Mr. **Owens**. The hearing is now adjourned.

[Whereupon, at 1:40 p.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]

17305

Attention Deficit Hyperactivity Disorder Association of Texas

Radd

February 18, 1990

FEB 21 1990

Representative Steve Bartlett
Subcommittee on Select Education
1113 Longworth House
Washington, D.C. 20515

Dear Rep. Bartlett:

I am president of the state board of the Attention Deficit Hyperactivity Disorder Association of Texas which has a mailing list of 3000 families and professionals and 20 chapters located throughout the state of Texas. Also, I am the treasurer of Attention Deficit Disorder Association, a newly organized national group of ADD associations.

I wish to have this letter entered as written testimony into the record concerning the imperative need for ADHD to be listed as a separate handicapping condition in P.L. 94-142.

As the wife and mother of an ADHD husband and son, a psychotherapist who professionally serves ADHD children and their families, as well as an officer in state and national ADD Associations, I wish to testify to the appalling lack of service and, at times, destructive treatment ADHD students are receiving in our schools.

Without ADHD specifically listed as a separate handicapping condition, we are concerned that the educational needs of ADHD students will continue to be ignored. Though statistically ADHD students are of average or above average intelligence, their educational needs vary from the need of special education to only needing modifications in the regular classroom.

Currently Texas requires that for a student to be considered handicapped by a specific learning disability s/he must meet certain well-defined criteria, among which is a significant discrepancy between his/her ability and his/her achievement. Current research studies indicate that probably only 10% to 25% of children with attention deficit hyperactivity disorder will score on individually administered achievement test significantly below their expected ability (I.Q.) level despite their inordinately poor performance in school classrooms. Therefore, between 75% to 90% of children with attention deficit hyperactivity disorder will not meet current eligibility requirements for a specific learning disability placement and

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will not be appropriately served unless the regulations defining criteria for ADHD are updated as well or unless ADHD is written into the Act as a separate handicapping condition in and of itself. It is important to emphasize that while ADHD and specific learning disability are overlapping conditions, ADHD is not merely a subtype of specific learning disability, and ADHD requires criteria of its own to be included in the amended Act.

It is imperative that ADHD be defined in the Act as a disorder of developmentally inappropriate degree of inattention, impulsiveness, and, in some instance, overactivity which becomes apparent in early childhood and is relatively chronic throughout adolescence and often into adulthood. The disorder is significantly pervasive and appears to have a biological predisposition. This disorder is not the direct result of gross brain damage, psychosis, autism or severe/profound mental retardation.

The fundamental problems inherent in this disorder should not be considered to relate to a discrepancy between ability level and achievement level. Instead it is primarily related to the discrepancy between ability level and the degree of attention span, impulsivity, and activity level difficulties.

At the very least, if ADHD must be listed as a specific learning disability, qualifying criteria must also be included to free ADHD students from having to meet the discrepancy criteria which presently exist in order to qualify for service.

I have talked to thousands of parents, served hundreds of ADHD children, and visited several areas of Texas. ADHD children are students at risk. When their educational needs are not being met, our communities are also at risk. ADHD students do not have time to wait. Legislative action is needed now to insure that ADHD students receive an appropriate education.

Respectfully submitted,

Nancy L. Eisenberg

Nancy L. Eisenberg, M.S.W., CSW-ACP
President

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ADHD Association of Texas
P.O. Box 61592
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ADHD

Attention Deficit Hyperactivity Disorder Association of Texas

meeting the challenge of Attention Deficit Hyperactivity Disorder

setting a pace for those who cope with ADHD

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The Attention Deficit Hyperactivity Disorder Association of Texas

The Attention Deficit Hyperactivity Disorder Association of Texas is an independent, nonprofit organization dedicated to meeting the educational, social, and emotional needs of attention deficit hyperactivity disorder children, adults, and their families. Founded in January of 1987, the state-chartered association, based in Houston with chapters throughout Texas, is not affiliated with any professionals, businesses or agencies.

The goals of the ADHD Association of Texas:

- to foster optimal psycho-social development of those with ADHD
- to ensure that community resources and services are available for the early detection and treatment of the disorder
- to sponsor statewide seminars and workshops
- to support educational legislation benefiting ADHD students
- to keep the public informed on the disorder and its treatment through the media, through the association newsletter and referral service, and through the organization's monthly meetings, educational programs and parent support services

ADHD as a physiological disorder....

Attention Deficit Hyperactivity Disorder is caused by a neurochemical deficiency in the attention center of the brain. Usually diagnosed in young children during their first years of school, the disorder is not caused by social conditions, poor parenting, ineffective discipline and is not related to intelligence. Rather, when the brain's attention center is underactive, a number of ADHD symptoms may surface.

These symptons, which are lengthy in number, may seem overwhelming, particularly for those who are ill-informed. However, more and more is being learned about the disorder, and as a result, those living with ADHD can now turn to a variety of treatment options. The first step, though, is to acquire a proper diagnosis, and since no single test is available to diagnose ADHD, a child must be evaluated psychologically, physically, academically, and socially. Only then can an appropriate treatment plan be formulated.

Characteristics of ADHD—Attention Deficit Hyperactivity Disorder

Behavior:

- Excessive movement, always "on the go"
- Difficulty staying seated, restless, fidgety
- Difficulty playing quietly
- Often talks excessively
- Reduced agility, poor coordination

Attention Difficulties:

- Difficulty working independently
- Short attention span
- Difficulty following simple directions or rules
- Fails to finish tasks and/or shifts from one incompleted task to another
- Appears to daydream and/or not listen, easily distracted
- Difficulty following directions and staying on task
- Difficulty organizing work
- Often loses necessities for school or home activities
- Erratic memory
- Inconsistent performance
- Concrete thinker, poor deductive reasoning ability
- Difficulty focusing on details

Emotional Characteristics:

- Excitable, impulsive, acts before thinking; often engages in physically dangerous activities without considering possible consequences
- Impatient, demands must be met immediately; difficulty waiting turn in games or group situations
- Easily frustrated in efforts
- Extreme emotions, overreacts, mood changes quickly and drastically
- Difficulty coping with change, difficulty shifting from one activity to another

Social Skills:

- Difficulty with social interactions, may be bossy, aggressive, or tease others
- Denies mistakes and blames others
- Poor problem solving skills
- Doesn't know how to develop friendships
- Very tactile, frequently pokes and touches others
- Reduced response to feedback, seems insensitive to others; appears to be unaware of how his behavior affects others, interrupts or intrudes on others
- Difficulty verbally expressing feelings

Once the diagnosis is made...

When the presence of ADHD is [illegible] family members, health care [illegible] officials must work together [illegible] effective treatment plan.

There are also medications currently on the market, such as Ritalin, Cylert, and Dexedrine, that have proved safe and effective when given with careful supervision by a knowledgeable physician. These medications stimulate the attention center of the brain, enabling the ADHD individual to behave more normally. And, as they are only effective while in the blood stream, they are not addictive when administered in the appropriate dosage.

Other helpful avenues...

Other keys to proper treatment include behavior modification training, [illegible] therapy, support group sessions, and, if needed, psychotherapy. Through these encounters, ADHD [illegible] and their families gain emotional support to deal with stresses related to the disorder and gain valuable skills that hopefully will enable them to relate more positively to others. Most important, with proper treatment those living with ADHD gain some insight to their own emotions as well as the feelings of others, thereby taking a significant step to becoming a more fulfilled member of our society.

In addition to meeting the needs of ADHD families, the association informs the general public of the special needs of those who have been diagnosed with ADHD and reaches out to those who can help in the mission: legislators, educators, and health care professionals.

If you wish to join the association, fill out the registration form and mail it in to us. If you are interested in establishing a chapter of the Attention Deficit Hyperactivity Disorder Association of Texas in your area, call the state office in Houston at 713 955-3720, and we'll send you details.

BEST COPY AVAILABLE

Membership Form ATTENTION DEFICIT HYPERACTIVITY DISORDER ASSOCIATION OF TEXAS

ADHD ASSOCIATION OF TEXAS is a nonprofit organization. Dues are $25.00 per year for individuals and families of ADHD children, $50.00 per year for professionals, and $100.00 per year for agencies, schools, and businesses. Dues are tax deductible with the limits of the tax law. If you have any questions, call us in Houston at (713) 955-3720.

If you wish to join the ADHD Association, please mail completed membership form and dues to:

ADHD Association of Texas
P.O. Box 61592
Houston, Texas 77208-1592

Name
Address
City ______ Zip ______ Phone: Day ______ Evening ______
Husband ______ Wife ______
Names of Children ______ Birthdate ______ ADHD: Yes or No ______ School District ______

What programs, activities, and projects would benefit you the most during the next year? ______

To be most effective, we need your help. Please check which committee of the ADHD Association of Texas you would like to join: Program ___ Publicity ___ Public Education ___ Fund Raising ___ Membership ___ Other ___

NATIONAL REHABILITATION COUNSELING ASSOCIATION
633 South Washington Street
Alexandria, VA 22314

STATEMENT FOR THE RECORD
Regarding
The Reauthorization of the
EDUCATION OF THE HANDICAPPED ACT

February, 1990

The National Rehabilitation Counseling Association (NRCA) appreciates the opportunity to provide the Subcommittee on Selection Education with this written statement regarding issues to be addressed during the reauthorization of portions of the Education of the Handicapped Act. We at NRCA and our colleagues at the American Rehabilitation Counseling Association (ARCA) and the National Council of Rehabilitation Educators (NCRE) concur that "Rehabilitation Counseling" has a rightful place and an important role in the Act under question.

The Role of Rehabilitation Counseling and its Relevance in this Legislation

While the statute does include "Counseling" as a related service, Rehabilitation Counselors are, for the most part, excluded from participating with school systems that usually require a license or certification for teaching. As such, the only "counselors" that are utilized are those already employed in the school system as counselors. There are vast differences between a "counselor" and a "Rehabilitation Counselor," and this difference is in the specialized training and experiences needed to serve persons with a variety of disabilities and needs pertaining to the world of work. While it is true that some overlap might occur with other "counseling professions," trained Rehabilitation Counselors do possess unique skills that are particularly relevant to transitional (school to work/school to other training) program for youth with disabilities.

For example, Rehabilitation Counselor training and experiences focus on the following:

- Selective job placement, job analysis, and job modification for persons with disabilities.
- Understanding various disabilities and medical information.
- Coordination of job support services.
- Work adjustment counseling and job development.
- Specialized career planning and linkage with post-secondary programs.
- The development of the IWRP (Individualized Written Rehabilitation Plan).
- The use of special accommodation on the job site.
- Occupational information and the world of work.
- Evaluation and interpretation of vocational assessment techniques.
- Case management with a focus on issues of disability.

The above core-areas are essential knowledge possessed by the professional Rehabilitation Counselor. University courses of the above type are often open to those in other related training programs, but they are clearly in the realm of Rehabilitation.

It should be clear that our position is one of providing youth with disabilities with the most comprehensive set of services. The current legislation short changes the student with a disability in the preparation for and the transition for vocational and educational pursuits. While the intent of the current legislation is to serve the student, unless the Federal mandate is amended to recognize the Rehabilitation Counselor as a qualified professional to join the multidisciplinary team, most states will continue their practice of excluding the very profession educated and experienced in working toward vocational goals for persons with a disability.

To insure that youth with disabilities are afforded the services of all professionals needed to appropriately prepare for the world of work and make a successful transition from school to work or further career education; NRCA recommends the following:

1. Amend Section 602 of the Education of the Handicapped Act (EHA) in paragraph (16) by inserting "; and transition services including instruction, rehabilitation counseling, and functional vocational evaluation for transition from school to work or to post-secondary education" after institutions and before the period at the end of the paragraph.
2. Further amend Section 602 of the EHA in paragraph (17) by inserting "including rehabilitation counseling," after "counseling services,".

We would also encourage the change of the term "handicapped children" to "individuals with disabilities" throughout the Act.

The members of NRCA are hopeful that this information will be of assistance to the Subcommittee as you deliberate this important issue that has, for too long, been ignored or discounted for reasons of expediency.

The members of NRCA are appreciative of your consideration, attention and sensitivity of the issues relating to citizens with disabilities. We stand ready to provide any assistance to the Subcommittee, deemed necessary that will result in better services to youth with disabilities.

NATIONAL REHABILITATION COUNSELING ASSOCIATION
633 South Washington Street
Alexandria, VA 22314

AOTA The American
Occupational Therapy
Association, Inc.

February 28, 1990

The Honorable Major R. Owens, Chairman
Subcommittee on Select Education
U. S. House of Representatives
518 Annex 1
Washington, DC 20515

Attention: Pat Laird

Dear Mr. Chairman:

The American Occupational Therapy Association thanks you for the opportunity to comment and provide recommendations concerning the reauthorization of the Education of the Handicapped Act.

We were pleased to see that a number of our initial and subsequent recommendations have been included in the draft legislation. Additional comments and recommendations relating to the compromise draft are enclosed for your consideration.

In addition, AOTA specifically wishes to call attention to two issues which we feel impact provision of services to students with disabilities and the availability of personnel to provide those services. Currently, recreation is listed as one of the related services in the Act (Sec 602 (a)(17)). Many professionals (including adapted physical educators, counselors, occupational therapists, physical educators and social workers) provide recreation services in the schools. The draft proposes to change the related service of "recreation" to "therapeutic recreation". This proposed change would have the effect of limiting recreational services to students and would reduce the number of personnel available to provide these services. Currently, therapeutic recreation services are listed in the Code of Federal Regulations (CFR 34 300.13 (9)(ii)) as one of many services included in the definition of recreation. To restrict the definition of recreation to only therapeutic recreation would limit the scope of recreational services to students with disabilities in the schools, and fails to acknowledge the fact that other professionals also provide recreational services. AOTA strongly recommends that the current wording of the law be retained in Section 602 (a)(17) and Section 642 (Research and Demonstration Projects in Physical Education and Recreation for Handicapped Children).

The second issue which we wish to stress relates to Section 633 (Clearinghouses). The clearinghouse on careers relating to the education of children and youth with disabilities has activities relating to special education and related services. However, the proposed wording would identify this as a clearinghouse on special education rather than all the fields relating to the education of children and youth with disabilities. AOTA recommends that the original wording be retained (Sec 633 (c)) or that the

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proposed wording be amended to include related services (proposed Section 633 (a)). Activities carried out under proposed section 633 (d)(2) (current section 633 (c)(2)) should include information on related services. Over a third of the personnel needs identified by the states in the Eleventh Annual Report to Congress are related services personnel. Including information about careers in the related services as well as special education through this dissemination network will increase the visibility of these career choices, enhance extensive private-sector recruitment efforts, and improve the potential of adequately meeting personnel needs in the future and, thus, provide services to children. AOTA recommends that related services be added to the proposed Section 633 (d)(2).

Again, Mr. Chairman, we appreciate the opportunity to comment on the draft legislation and thank you for taking our concerns into consideration.

Sincerely,

Barbara E. Chandler, MOT, OTR

Barbara E. Chandler, MOT, OTR
Pediatric Program Manager
Practice Division

BEC/scv

EDUCATION OF THE HANDICAPPED ACT RECOMMENDATIONS

The American Occupational Therapy Association appreciates the opportunity to provide recommendations regarding The Education of the Handicapped Act. This act has truly revolutionized public education in this country and has provided opportunities for many children to receive "a free, appropriate public education."

The American Occupational Therapy Association, a member organization representing over 40,000 registered occupational therapists (OTRs), certified occupational therapy assistants (COTAs), and occupational therapy students OTSs), offers the following comments and recommendations on the House draft of the 1990 reauthorization of The Education of the Handicapped Act.

In the following sections, suggested additions, deletions, or changes in language are underlined.

I. Sec 602
(a)(1)

AOTA commends the addition of traumatic brain injury and autism to the definition of children with disabilities.

(a)(17)

Issue:
The related service of recreation is now listed as therapeutic recreation.

Recommendation:
Delete: therapeutic recreation

Rationale:
Restricting recreational services to only therapeutic recreation restricts the scope of services and availability of personnel to provide services.

II. Section 604

AOTA commends the inclusion of this section addressing the abrogation of state sovereign immunity.

III. Section 618
(b)(3)

Issue:
The proposed wording limits collection of exit data by disability category to students 14 years of age and older.

Recommendation:
Retain original wording from current law and insert ...exiting special education.

Rationale:
Valuable information about effectiveness of early intervention, preschool, and primary grades services may be lost if data is not gathered on students of all ages who exit special education. It should be noted that children exiting preschool programs usually enter kindergarten, not first grade.

(b)(5)

Issue:
Proposed language does not provide for gathering data about the type of personnel who provide special education and related services in the school.

Recommendations:
Retain the current language of the law.

Rationale:
This will assist states in determining personnel status and needs.

IV. Section 626
(e)(1)

AOTA commends the inclusion of language which stresses coordination of all transition services.

V. Section 631
(a)(1)

AOTA commends the inclusion of wording that includes both preservice and in-service training of special education and related services personnel.

(a) new (5)

AOTA commends the inclusion of wording which stresses interdisciplinary training to promote coordination of service to children and youth with disabilities. The requirement of a practica in the provision of related services is particularly timely.

(b)

AOTA commends the inclusion of wording which stresses the coordination of services among all providers.

VI. Section 633
(a) proposed

Issue:
Related services is not specifically named or identified as a priority need area.

Recommendation:
Add: ... and on careers in special education and related services to --

Rationale:
Diffusion of information about related service careers through this clearinghouse will impact a great number of individuals and potentially increase the number of individuals who choose a career in one of the related services and eventually practice in the schools.

(c)(2), proposed (d)(2)

Issue:
Related services is not specifically included or identified as a priority need.

Recommendation:
Include: ...career opportunities in special education and related services, location ...

Rationale:
Use of this clearinghouse to provide information about careers in related services is an effective way to acquaint potential professionals with the fields of practice in the schools.

VII. Section 641
(a)(6), proposed (a)(1)(g)

Issue:
Students with disabilities appear in all cultural groups. Although culturally and linguistically diverse groups can benefit from alternative assessment procedures, particular attention should be focused on alternative or adapted assessment procedures required to accurately assess a student's abilities and needs.

Recommendation:
Include wording that alternative assessment procedures will be developed which enable evaluators to accurately assess a student's skills and abilities regardless of the student's disability.

Rationale:
AOTA feels that the focus of this section should be on developing alternative assessment procedures and processes for students with disabilities whose disabilities render most standard assessment procedures inappropriate; example, the severely physically involved student and the nonverbal student.

VIII. Section 642

Issue:
The related service of recreation has been more narrowly defined as therapeutic recreation.

Recommendation:
Delete: therapeutic recreation

Rationale:
The inclusion of the word therapeutic more narrowly defines and restricts recreational services to children with disabilities.

IX. Section 661

Issue:
There are no related services to infants and toddlers.

Recommendations:
Delete: ...and the provision of related services and early intervention to handicapped infants and toddlers...

Rationale:
Services known as related services for children 3-21 under Part B are included as developmental services for infants and toddlers with disabilities under Part H. The statue clearly states that many of the services known as related services under Part B are early intervention services under Part H. Inclusion of the term related services in reference to infants and toddlers with handicaps may confuse some individuals. There are already reported difficulties in some states about the distinction of a service as related under Part B and as a primary early intervention service under Part H. Including related services here is inaccurate and would cloud the issue.

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STATEMENT OF

THE AMERICAN REHABILITATION COUNSELING ASSOCIATION

A DIVISION OF
THE AMERICAN ASSOCIATION FOR COUNSELING AND DEVELOPMENT

ON

THE REAUTHORIZATION OF THE EDUCATION OF THE HANDICAPPED ACT
(H.R. 1013)

PRESENTED TO

SUBCOMMITTEE ON SELECT EDUCATION,
COMMITTEE ON EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.
MARCH 2, 1990

American Association for Counseling and Development is Committed to Equal Opportunity

The American Rehabilitation Counseling Association (ARCA) appreciates the opportunity to provide the Subcommittee on Select Education with this written statement for the record regarding issues pertaining to the Education of the Handicapped Amendments. ARCA, a division of the American Association for Counseling and Development, has collaborated with the other rehabilitation counseling related associations, the National Rehabilitation Counseling Association (NRCA) and the National Council of Rehabilitation Educators (NCRE) regarding the special education amendments. We applaud the subcommittee for recognizing the importance of rehabilitation counseling in the special education of students with disabilities. We further applaud the subcommittee for continued efforts on behalf of students with disabilities as reflected in the Education of the Handicapped Act (EHA) and subsequent amendments.

There is no doubt that EHA has profoundly improved options and quality of special education for students with disabilities. However, studies continue to show that the product of special education - employment, remains out of reach of most students who exit special education programs. The following recommendations of ARCA, NRCA, and NCRE are designed to address the needs of students with disabilities in preparing for transition from school to work and post-secondary education:

(A) Amend Section 602 of the Education of the Handicapped Act in paragraph (16) by inserting "; and transition services including instruction, rehabilitation counseling, and functional vocational evaluation for transition from school to work or to post-secondary education," after institutions and before the period at the end of the paragraph.

(B) Further amend Section 602 of the Education of the Handicapped Act in paragraph (17) by inserting "including rehabilitation counseling," after "counseling services,".

We applaud the committee for inclusion of these recommendations in the draft amendment to substitute for H.R. 1013. Following is a summary of the reasons why these recommendations are vital to the education of children with disabilities:

Recommendation A is vital. Transition from school to work or to post-secondary education must be viewed as an integral component of Special Education and therefore included in the statutory definition of Special Education. School rehabilitation counseling services are necessary foundations of transition services because there is no clear responsibility for transition planning and preparation among the wide range of professionals involved in special education. Further, no one discipline, other than rehabilitation counseling, embodies the wide range of knowledge related to successful school to work transition (e.g., vocational implications of disability, career development and career counseling for people with disabilities, job placement, job modification). Thus, rehabilitation counselors can coordinate the services of special education disciplines, adult service providers, and post-secondary education agencies, to ensure effective, planned transition services.

The inclusion of rehabilitation counseling services would benefit students with severe disabilities who require the coordination of multiple services to enable successful transition. Students with mild disabilities would also benefit. Often, such students receive minimal special education services and thus have limited or non-existent coordination of transition related services. Despite their apparent mild disabilities, research has shown that such students have very low probabilities of successful school to work transition and much higher than average probabilities of dropping out of school prior to completion of their studies.

ARCA's recommendations would not require schools to use rehabilitation counseling if such a service was not needed to ensure successful transition. However, like other special education services (e.g., homebound instruction), rehabilitation counseling would become an option for school districts to address the transition needs of students with disabilities.

The Senate bill has failed to include provisions for school based rehabilitation services. Report and statutory language has suggested that special grants to state Vocational Rehabilitation (VR) agencies and cooperative agreements between such agencies and schools would provide students with sufficient access to rehabilitation counseling services. While such grants and agreements are necessary and beneficial, they are no substitute for qualified rehabilitation counselors employed by school districts, a need which would be addressed by Recommendation A. The following circumstances mitigate against grants and cooperative relationships satisfying the transition needs of students with disabilities:

1. State agency rehabilitation counselors often do not possess preservice training in rehabilitation counseling. The most recent study of the qualifications of state VR agency rehabilitation counselors indicated that between 50 to 85% lacked preservice preparation in rehabilitation counseling. Thus, cooperative relationships may subject students with disabilities to the risks of underestimation of their potential by individuals who lack the requisite training (i.e., a master's degree) in rehabilitation counseling.
2. State VR agencies are evaluated on the number of individuals with disabilities who become employed. All good intentions aside, this means that younger students with disabilities, who will not be ready for employment for a few years, often receive little or no attention from state agency VR counselors. Nonetheless, these students need the services of rehabilitation counselors in career planning.
3. State VR agencies have different eligibility criteria than special education programs. Some students with disabilities who receive special education services will not be eligible to receive vocational rehabilitation services. Further, there are students with disabilities who do not require specialized instruction, and thereby do not qualify for special education under the current definition, but nonetheless require rehabilitation counseling assistance in career planning and transition from school to work or to post-secondary education. The ARCA recommendations would enable school employed rehabilitation counselors to work as "bridges" from school to work or college for these students.

Recommendation B. Children with disabilities and their families have special counseling needs resulting from the complexity of disability and its effects on education and career development. However, none of the counseling and related professions currently listed in the related services section of the Education of the Handicapped Act specialize in disability. While we understand that the list is not meant to be exclusive, it has been considered exclusive by some districts and thereby resulted in exclusion of qualified rehabilitation counselors from consideration for counseling positions in which they could benefit students with disabilities and their families.

Rehabilitation counselors can be very useful as related service professionals in the special education of students with disabilities. Most graduate counseling and related programs include at most one or two elective courses relating to people with disabilities. However, accredited master's degree programs in rehabilitation counseling include required course work in the medical aspects of disabilities, psychosocial aspects of disabilities, and career preparation and job placement of people with disabilities. ARCA's recommendations would not require schools to hire rehabilitation counselors as related service professionals. However, the recommendations would enable schools to consider rehabilitation counselors for counseling and related services to be provided for students with disabilities. Given the disability related focus of rehabilitation counselor graduate preparation, such consideration is certainly warranted.

In summary, ARCA applauds the subcommittee for including rehabilitation counseling services in paragraphs (16) and (17) of Section 602 of the draft Amendment to H.R. 1013. This action is of vital importance and we stand prepared to support the subcommittee as necessary.

Statement of the
National Association of
School Psychologists

Concerning
Reauthorization of Discretionary Programs:
Education of the Handicapped Act*

To the
Selected Education Committee of the
Committee on Education and Labor
U.S. House of Representatives

February 21, 1990

* THIS IS A STATEMENT ON THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO HR 1013 OFFERED BY MR. OWENS OF N.Y. The National Association of School Psychologists has spoken previously to the Amendment to Prohibit Corporal Punishment.

The National Association of School Psychologists (NASP) commends the Subcommittee on Select Education for its comprehensive draft of the Reauthorization of the Discretionary Programs of EHA.

We strongly support the following components of the draft:

1. The "person first" language change in the title including the replacement of "handicapped" with the term "disabilities."
2. The minority initiatives including the technical assistance and priority given to minority individuals, organizations and historically Black colleges and universities.
3. The additional requirements for special studies by the department including those for related services and out-of-state placements. These are NASP priorities.
4. The requirement that State plans must include a demonstration of how they will increase the number of minorities in the professions. This is NASP priority.
5. The requirement that OSERS language in greater dissemination and integration of information and the interpretation of that information as it relates to the effectiveness of the Act.
6. The initiation of the "Ombudsman Program" with the inclusion of both in school specialists such as school psychologists and school social workers and other advocates in the community at large.
7. The expanded transition program.
8. The discretionary grant program for the students classified as seriously emotionally disturbed. This is a NASP priority.
9. The Amendment to prohibit corporal punishment upon children with disabilities. This is a NASP priority.
10. The inclusion of social work as a related service.

We believe that the additional conceptual language noted above strengthens what has already been proposed in the Senate Reauthorization of EHA.

We have specific concerns about:

1. **Definitions (Page 1, line 9-17): NASP opposes the inclusion of new labels or categories. Our association feels that the addition of new categories or labels for students already being served under the Act will not, in itself, as its supporters may hope, improve services for these populations. Surely children who suffer from autism need well trained and specially skilled personnel and programs that include comprehensive, related services as do students with other**

severe handicaps. But we do not separately label each one of these severe handicaps. New categories will not, in our opinion, solve old problems of poor, incomplete services. A clear example of that can be found in the seriously emotionally disturbed (SED) category which has existed for nearly two decades. The term SED has not created effective programs. There remains a lack of services for this category.

Furthermore, our association worries that some specific disabilities may be misunderstood to be "program labels" resulting in another group of segregated programs, centers, self-contained classes for these specific disabilities. We believe, in general, that such segregated programs are counterproductive to assisting these children in maximizing normalcy.

We caution the committee on developing a solution that might result in new problems in practice.

2. Children with Specific Learning Disabilities (Page 2, line 11): The addition to the definition of specific learning disability (SLD) of the term "attention deficit disorder (ADD)" is an ill framed idea and may have the effect of serving fewer children with ADD under EHA.

Our association understands that the supporters' rationale for this change is that medical doctors use the term ADD and "minimal brain dysfunction" interchangeably (LDA, personal communication). The term "minimal brain dysfunction" is a much more general term that historically means any demonstrated neuropsychologically based processing problem that is believed to be the manifestation of a "brain dysfunction." ADD, on the other hand, is not a general term for a psychological processing problem. In fact, many students with ADD have excellent psychological processing and motor coordination but have poor attention.

This issue has been discussed by professionals for several years and none of these professionals have made the recommendation to include ADD in the definition. The National Joint Committee for Learning Disabilities (NJCLD) has drafted a definition of specific learning disabilities (revised in 1989) which is viewed as far more acceptable among researchers, practitioners, teachers and others when compared to the present definition in the law. If a change should be proposed, this NJCLD definition might be an effective alternative.

Furthermore, the ADD condition is presently a symptom that fits into three disability groups: specific learning disability, seriously emotionally disturbed and other health impaired. To make it specific to learning disabilities alone could reduce the flexibility presently available to school diagnostic teams in identifying the most appropriate category of diagnosis. Presently, it is speculated that there are many students with ADD being served under EHA who would not qualify under the SLD label using CFR 300.532 requirements.

3. For-Profit (Page 8, line 15): Our association questions the value of including for-profit organizations in the grant process. We feel that the limited monies available should not be given to for-profit groups and that other not-for-profit entities should be supported in receiving technical assistance and priority on seeking and securing grants under this Act.

4. State Plans (Page 11, lines 22-24) "... other form of exemption from state certification or licensure ...": We urge the Committee to use the Senate language in this section, reading:

   > "... the number of personnel who are employed on an emergency, provisional or other basis who do not hold appropriate certification or licensure ..."

   NASP feels that this language is more specific. The term "appropriate" demands a recording of the type of certificate and furthermore, the language avoids the legal confusion caused by the term "exemption" which in some states differentiates persons who are licensed from those that are certified by different boards of examiners. For example, in many states, school psychologists are exempt from the licensure requirements of Board of Examiners of Psychologists. The term exemption in this case is different from the intent in the Act but creates serious state-by-state confusion resulting in interagency conflict.

An Additional Concern About Qualifications and Transitions:

NASP recommends that the Committee place in the Act or in report language the concerns about the lack of consistency and costly blocks to smooth transition between school services and vocational rehabilitation services for students with disabilities. Diagnostic services provided for transition from school to vocational rehabilitation are evidently, by federal regulations or statutes, not considered valid for use because the "qualified examiner" in the schools is generally a certified examiner whereas the regulation for vocational rehabilitation requires a licensed qualified examiner. Therefore, the student must be re-examined to determine eligibility for vocational rehabilitation services at a cost of nearly $1,000. This is not only an unnecessary duplication of cost but also places an extreme burden upon the person with disabilities. Transition to college is smoother since the certified person is considered qualified to make the diagnosis for eligibility for special programs and colleges. Furthermore, there is clear evidence that these duplicative procedures are invalid when the same tests are repeated within short periods of time, an additional concern that is ignored under present procedures.

The regulatory language should be changed to make for a smoother and less costly transition for our students with disabilities moving from school to other publicly funded training resources and services.

Report language related to this issue would best follow the statement (2)(B) on page 41 and (2)(C) on page 42.

If language were to be written into the Act, it could be stated:

> Page 44 (1) after ... in school settings; ... and provide that school based certified examiners such as school psychologists be considered qualified examiners for such transitions services and eligibility under JTPA;

We are pleased to note the recognition of the Children and Adolescent Service System Programs (CASSP - NIMH) in the dissemination of information and networking with OSERS. Coordination of services is difficult and legislative models for such coordination and collaboration will facilitate similar local initiatives so desperately needed by students with disabilities. We would urge the Committee to explore other information sharing with the Department of Justice and with NIH regarding "other health impairments" including students who are HIV positive.

Programs for Children and Youth with Serious Emotional Disturbance (Sec. 627, Page 45)

NASP urges that these programs be funded at a level which will enable them to meet their goals and to be more than token efforts to answer many critical questions for this poorly, underserved population of the disabled. Too often we fail the students with serious emotional disturbance. They are hard to teach. They are, too frequently, neither "cute" or clearly visibly disabled. Their behaviors are sometimes aggressive and frequently puzzling. EHA has not yet been their law. It has not freed them or their families from frequent failure and disappointing withdrawals from education and social adjustment. They are least ready for adulthood or the world-of-work.

These programs need an initial budget of $15,000,000. This will be money well spent. If we don't spend it here, we will spend it in jails, unemployment compensation, homeless housing and institutional care.

NASP urges the Committee to aggressively seek substantial funds for this needed initiative.

We thank the Committee and Chairman Owens for the opportunity to respond to this vital piece of legislation for the education of our students with disabilities.

Please refer questions to:

Kevin P. Dwyer, NCSP
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